



# Consultation on Policy Options Arising from the Reform of the Common Agricultural Policy (Pillar I Direct Payments)

October 2013



Department of  
**Agriculture and  
Rural Development**

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## GLOSSARY/LIST OF ABBREVIATIONS

<b>Term or abbreviation</b>	<b>Meaning/definition</b>
AE	Agri-environment
AFBI	Agri-Food and Biosciences Institute
Agricultural activity	"agricultural activity" means: <ul style="list-style-type: none"> <li>• production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes, or</li> <li>• maintaining the an agricultural area in a state which makes it suitable for grazing or cultivation without any particular preparatory action going beyond traditional usual agricultural methods and machineries, based on criteria established by Member States on the basis of a framework established by the Commission, or</li> <li>• carrying out a minimum activity, to be established by Member States, on agricultural areas naturally kept in a state suitable for grazing or cultivation</li> </ul>
Agricultural area	Any area taken up by arable land, permanent grassland and permanent pasture or permanent crops
ANC	Area of Natural Constraints
Arable land	Land cultivated for crop production or areas available for crop production but left lying fallow (including set aside) in the current year or within the previous five years
BPS	Basic Payment Scheme
CAP	Common Agricultural Policy
CAP Health Check	Measures agreed by the EU Agriculture Council in 2008 to “modernise, simplify and streamline the CAP and remove restrictions on farmers”
Conacre	A system of short-term letting of agricultural land for a period not exceeding 364 days
Coupled support	A payment directly linked to the volume of output of a specific agricultural product
DA	Disadvantaged Area – land classified as LFA under Directive 84/169/EEC
DARD	Department of Agriculture and Rural Development
Direct payments	European Union subsidies to farmers under Pillar I of the Common Agricultural Policy
EFA	Ecological Focus Area
Entitlements	These form the basis of payments to farmers under the Basic Payment Scheme — once activated each entitlement will have a value and can be used by a farmer to claim payment each year, subject to meeting the relevant scheme rules
Eligible land	Broadly speaking, land is eligible under the Basic Payment Scheme



	if it is arable, permanent grassland or pasture or permanent crops, but exceptions apply
EU	European Union
EU Commission	European Commission
FAPRI	Food and Agricultural Policy Research Institute at the University of Missouri
Farmer	A natural or legal person, or a group of natural or legal persons whose holding is situated within the territory of the same Member State and who exercises agricultural activity
Flat rate	A payment structure under which all hectares of eligible land in a region would attract the same level of support
Grasses or other herbaceous forage	All herbaceous plants that are traditionally found in natural pastures or normally included in mixtures of seeds for pastures or meadows in the Member State
Holding	All the units used for agricultural activities and managed by a farmer situated within the territory of the same Member State
LFA	Less Favoured Area – areas of poorer agricultural land which qualify for special aid under EU Schemes
LFACA Scheme	Less Favoured Area Compensatory Allowances Scheme
LL	Lowland
NISRA	Northern Ireland Statistical Research Agency
Permanent crops	Non-rotational crops other than permanent grassland and permanent pasture that occupy the land for five years or more and yield repeated harvest, including nurseries and short rotation coppice
Permanent grassland (including permanent pasture)	Land used to grow grasses or other herbaceous forage naturally (self-seeded) and through cultivation and that has not been included in the crop rotation of the holding for five years or more. Member States/regions may include other land which can be grazed and which forms part of established local practices where the grasses and other herbaceous forage are traditionally not predominant in grazing areas (e.g. grazed heather under certain conditions)
Pillar I and Pillar II	The CAP is divided into two parts — Pillar I deals with direct payments and market management measures, and Pillar II deals with rural development measures
SDA	Severely Disadvantaged Area – land classified as LFA under Directive 74/268/EEC
SFP	Single Farm Payment



# **CONSULTATION ON POLICY OPTIONS ARISING FROM THE REFORM OF THE COMMON AGRICULTURAL POLICY (PILLAR I DIRECT PAYMENTS)**

## **SECTION 1 INTRODUCTION**

### **1.1 Purpose of the consultation**

The purpose of this document is to seek the views of stakeholders on DARD's proposals for implementing the legislative reform of Pillar I Direct Payments of the Common Agricultural Policy (CAP), which was agreed between Member States and representatives of the main political groups of the European Parliament on 26 June 2013 and finalisation of that agreement on 24 September 2013.

### **1.2 Structure of the consultation document**

This consultation document is structured to seek the views of stakeholders on the key policy decisions within the Pillar I Direct Payments CAP Reform Package.

Section 2 presents a consideration of the main issues and seeks views on these. It also presents a summary of the Department's suggested package at Section 2.26.

Section 3 summarises all of the consultation questions posed throughout the document.

Section 4 explains how you can respond to the consultation questions we have asked and the date by which you need to send us your views.

### **1.3 Background**

A political agreement was reached on 26 June 2013 on reforming the CAP and work continues to finalise the legislative texts. The reforms were originally scheduled to start in January 2014 but changes to the system of Direct Payments to farmers (Pillar I of CAP), which is the subject of this consultation, will not now commence until 1 January 2015. The timescale for implementation is short and for this reason, the Department has decided that a public consultation on the implementation options should go ahead prior to final agreement on the legal texts.

This consultation document describes the agreed Pillar I reforms and explains DARD's suggestions for implementing these reforms using the various options available to it under the agreement. The document outlines a suggested package of support and seeks views on this package. All proposed decisions are subject to confirmation of the final regulations (when agreed) as well as the finalisation of the CAP budget. Given that some of the legislative text has not yet been confirmed, there may be a need for the Department to provide additional material to stakeholders during the course of the consultation. This we will do via established processes.

#### **1.4 Current state of play**

In November 2010, the European Commission (EU Commission) published preliminary policy proposals for the reshaping of the CAP for the period 2014-2020. Draft regulations were subsequently published on 12 October 2011 setting out the detailed reform package. DARD held public consultations on both these sets of proposals.

Having considered the views of stakeholders, the DARD Minister presented to the EU Commission her initial response to the proposals in April 2012. This document highlighted the concerns and difficulties arising from the EU Commission's draft legislative texts, but also outlined how the reform proposals could be adapted, improved and simplified. DARD's input throughout the subsequent negotiations was guided by this response and many of the amendments contained within the final agreement mirrored the position that it presented.

The reform agreement provides a very considerable degree of regional flexibility in the implementation of Pillar I support. There are approximately 80 'decision points' in the draft legislation that are available to us. Some are relatively minor and some are not relevant in our circumstances. However, a number will be of major significance for both the industry (in terms of potential impact) and for the Department (from a delivery perspective).

Following the political agreement on CAP Reform in late June 2013 and the finalisation of that agreement on 24 September 2013, DARD has considered the

available options and has suggested how the direct payments framework could be implemented in Northern Ireland. Final decisions will be subject to confirmation of budgets and legal texts and will take into consideration the views expressed by stakeholders during this consultation. Many of the issues are interlinked (for example, the rate of progress towards a flat rate support regime or the decision on whether to treat Northern Ireland as a single region will have a bearing on the decision of whether to deploy an Areas of Natural Constraint Scheme in Pillar II).

Subject to the decisions taken following this consultation and finalisation of legal texts, the Department will progress preparations during 2014 for introducing a new Direct Payments regime from 1 January 2015. In developing and implementing the CAP reform package, the Department will seek to simplify wherever possible and deliver a smooth and measured transition to the new Pillar I support regime. The Department is mindful that Pillar I of CAP and related schemes have been subject to significant financial correction since 2005 and that changes to key controls since then have had a significant impact on the farming community. The reform agreement will introduce new complexity to the payments system and it is highly important in that context that the processes for delivering the payments are designed to reduce the risk of error both for the claimant farmer and for the Department. There is significant scope for new technology to help in this, particularly with regard to the development of online services. The Department is considering options to boost online uptake and will consult on these in due course.

### **1.5 Note on the analyses presented in this consultation**

The direct payments analysis within this consultation has been compiled using data derived from 2013 Single Farm Payment (SFP) claims and the 2012 Agricultural Census and using the 2013 SFP budget. It has been used to identify the potential effects and influences, at aggregate level, of various key options for the distribution of direct support and should be regarded as indicative only. The actual effects will, of course, depend of the collective impact of decisions taken by individual claimants when the reforms are implemented in 2015. These could be somewhat different if, for example, there were significant differences in the claimant population in 2015 compared with 2013. Only the impact on the distribution of direct payments has

been shown and not the wider knock-on effects, such as possible changes to the levels of conacre rent.

**The following notes apply to all tables in the analysis:**

1. The 2013 Single Farm Payment (SFP) data (all applications received) are matched with the 2012 Agricultural Census data.
2. The regional ceiling is assumed to be €325m for years 2015 – 2019.
3. A 2% reduction is applied to the regional ceiling to fund the Young Farmers' Scheme, leaving €318.5m for the Basic Payment Scheme and Greening.
4. No optional schemes applied except where otherwise stated.
5. It is assumed that entitlements allocated to each business in 2013 remain unchanged in 2015 and future years.
6. Businesses which do not match with Census records and which currently receive the minimum SFP of €78.66/ha are assumed to be non-farming landowners. Remaining unmatched businesses are recorded as 'no match'. Some of these may have received coupled payments in 2000 – 2002 but have subsequently ceased active farming.
7. The distribution of SFP entitlements currently held has been calculated following the application of a linear reduction to the €318.5m budget ceiling.
8. Greening is paid as a percentage of the Basic Payment Scheme except where otherwise stated.
9. Totals may not be exact due to rounding.

## SECTION 2 CONSIDERATION OF THE ISSUES

### 2.1 Eligible land

The definition of land eligible for direct payments will differ little from that under the current system. Helpfully, the agreement includes a specific option to include within the definition of permanent grassland, land that can be grazed and which forms part of established local practices where grasses and other herbaceous forage are traditionally not predominant (i.e. grazed heather). This provides a sound legal basis for the current interpretation and implementation of the definition of permanent grassland and the use of this option would make no difference to the overall area of eligible land in Northern Ireland. Therefore, the Department intends to implement this option so that grazed heather continues to meet eligibility conditions.

An option is provided which would allow the application of a reduction coefficient to permanent grassland located in areas constrained by climatic conditions, soil quality, steepness and water supply for the purpose of establishing entitlements in 2015. The Department does not intend to implement this option as it is of the view that all land which meets the eligibility conditions should be equally eligible for establishing entitlements. For similar reasons, the Department does not intend to apply the option that would exclude agricultural area under permanent greenhouses from being used to establish entitlements.

There is a further option to apply a reduction coefficient to permanent grassland where herbaceous forage is not traditionally predominant (essentially grazed heather) for the purpose of activating (i.e. claiming) entitlements each year. Under this option, the number of hectares declared would be converted to a reduced number of eligible hectares. The Department does not propose to implement this option as it considers that all land which complies with the eligibility conditions should be treated equally and be eligible for claiming payments.

**Q1. Do you agree with Department's suggestion not to apply a reduction coefficient to permanent grassland located in areas constrained by climatic conditions, soil quality, steepness and water supply and not to exclude agricultural area under permanent greenhouses from being used to establish entitlements?**

**Q2. Do you agree with the Department's suggestion not to apply a reduction coefficient to land used to activate entitlements where grasses and other herbaceous forage are not predominant but which is grazed as part of established local practice?**

## **2.2 Entitlement transfer**

The reform agreement provides Member States and regions with the option to siphon off a proportion of entitlements when there is a transfer of entitlements between claimants without a corresponding transfer of land. The Department does not propose to implement this option as this would serve to discourage the trading of entitlements and, in turn, restrict the restructuring of farm businesses. Furthermore, it is likely to raise relatively little funding for the Regional Reserve and would make the administrative arrangements for the transfer of entitlements more complicated.

**Q3. Do you agree with the Department's suggestion not to apply a siphon when payment entitlements are transferred without land?**

## **2.3 Establishment of entitlements on conacre land and dual use claims**

At present, a substantial number of non-farming landowners claim support payments on land which they let out in conacre. This results in land parcels being declared on more than one application form (i.e. both that of the landowner and of the farmer renting land), and thus leading to overlapping holdings. It also creates the conditions that lead to dual use claims, whereby one scheme is claimed by the landowner and another scheme is claimed by the renting farmer on the same land parcel.

There have been two developments which could mean that this position will no longer be tenable from 2015 except, perhaps, in very limited and exceptional circumstances. First of all, the reform agreement makes clear that greening



obligations apply to all hectares on the applicant's holding, not just those used to support payment claims. Secondly, the EU Commission has repeatedly advised the Department during the course of audit activities that in its view, in a conacre situation, support payments should go to the person who is actively farming the land.

The application of greening to all hectares on the holding may mean that it will no longer be possible to permit overlapping holdings on a widespread basis. It will have to be established to which holding the land parcel should be attributed in order to determine which is responsible for adhering to the greening requirements and whether these requirements are being met. If a parcel could be used to enable more than one holding to meet the greening requirements, then this could lead to contrived and artificial situations with very obvious audit risks. This could be avoided if a land parcel is permitted to be declared on one application form only, meaning that overlapping holdings and dual use claims would no longer be possible.

Given the greening requirements and the EU Commission's views, the Department may be strongly advising that on conacre land, entitlements should be established and claimed by the person who is actively farming the land. If other arrangements should prove possible, then landowners may have to clearly demonstrate that they are exercising agricultural activity on that land (in which case, the land parcels would form part of the landowner's holding and would not be available to another farmer to declare on his application form or use to claim payment under a different scheme).

These are complex issues and a definitive position will only be possible when the legislation is finalised and after further discussion with the EU Commission and legal advice. However, consultees will wish to take these considerations into account when responding to questions in this consultation, particularly those relating to the reallocation of entitlements from 2015 onwards.

## **2.4 Reallocation of entitlements**

The reform agreement permits the retention of existing payment entitlements or the reallocation of entitlements in 2015. The agreement also allows Member States and regions the option to limit the number of new entitlements allocated to individual claimants to the number of eligible hectares they declared in 2013.

An advantage of reallocating entitlements is that it gives non-farming landowners an opportunity to exit the system by coming to a different arrangement with their conacre tenants without having to sell or lease entitlements (i.e. the conacre tenant would apply for the new entitlements and assume sole responsibility for adhering to scheme conditions on the rented land). This, in turn, provides an opportunity to resolve the dual use claims and overlapping holdings issues noted above.

Moreover, allowing reallocation and not restricting entitlements to eligible hectares declared in 2013 allows farmers the opportunity to match their entitlements to the area of land that they are now farming. For example, some farm businesses may be farming significantly more land in 2015 than they were in 2005. If existing entitlements were retained, then the only means by which these farmers could be allocated additional entitlements would be via a more complicated Regional Reserve mechanism.

If existing entitlements were retained, or if the reallocation of entitlements was restricted to 2013 levels, then the most likely outcome would be close to the *status quo*.

A potential disadvantage of reallocating entitlements is the risk that it may cause some short term disruption to the conacre market if individual farmers seek to maximise the number of entitlements they establish in 2015. However, such action would be tempered by the fact that a farmer would need additional land in subsequent years in order to continue to activate all of the additional entitlements secured. Furthermore, some disruption to the conacre market is possible in 2015 even if existing entitlements were to be retained as, under this option, there is a requirement to withdraw all entitlements held by claimants in excess of land they declare in that year. This could result in some farmers seeking additional land to prevent any excess entitlements they may hold being confiscated.

The reallocation of entitlements in 2015 is the easiest way in which to allocate entitlements to those who entered farming prior to 15 May 2013 and never held entitlements (see Section 2.5 on eligibility to establish entitlements and entitlement allocations).

Having considered the above factors, the Department is proposing to reallocate entitlements in 2015 and not to restrict the number of entitlements to 2013 levels. This approach provides the best opportunity for farm businesses to match the number of entitlements they receive with the area of land they are farming in 2015. It also provides maximum flexibility for non-farming landowners and tenants to come to mutually satisfactory arrangements in relation to conacre land which take account of any developments on overlapping holdings and any guidance regarding active farming.

**Q4. Do you agree that all existing entitlements should be cancelled at the end of 2014 and entitlements reallocated based on the area of eligible land declared in 2015?**

**Q5. Do you agree that the number of entitlements that can be established in 2015 should not be restricted to the number of eligible hectares declared in 2013? If not, please explain why.**

**Q6. If you consider that existing entitlements should be retained, please state your views on whether those who declare more land than entitlements held in 2015 should receive additional entitlements from the Regional Reserve? (Only answer this question if you respond 'no' to Q4).**

## **2.5 Eligibility to establish entitlements and entitlement allocations**

The default provision in the Direct Payments Regulation is that only those farmers in receipt of a direct payment (SFP) in the 2013 scheme year will have an automatic right to establish entitlements under the new Basic Payment Scheme. However, there is an option for Member States and regions to allocate entitlements in 2015 to farmers who never held entitlements previously but who can submit verifiable evidence that by 15 May 2013, they produced, reared or grew agricultural products. This option would allow those businesses which have commenced farming after 2005 to receive direct support under Pillar I.

There is discretion to add additional eligibility criteria regarding appropriate skills, experience and/or education.

The Department is proposing to implement this option to allocate entitlements. No additional criteria would be applied because the additional claimants entering by this route would have already shown that they are active farmers.

**Q7. Do you agree with the Department's suggestion to permit those who have never held SFP entitlements to be eligible to receive entitlements under the new regime if they can provide verifiable evidence of active farm production by 15 May 2013? If not, please explain why.**

## **2.6 Minimum allocation of entitlements and claim size**

The agreement contains an option to set a minimum size of holding for which the initial establishment of entitlements may be requested. This can be set at a level no greater than 5ha. In addition, there is a mandatory requirement to set the minimum claim size each year at either 1ha or €100. These latter values can be increased up to 5ha or €200. The lower limit for establishing entitlements in 2005 was 0.3ha (which was the maximum allowed at that stage), and a €100 minimum claim size was introduced in 2010.

Clearly these two issues are linked as it would be illogical to create a situation whereby entitlements could be established but not claimed because of differing minimum size requirements for the initial establishment of entitlements and areas that may subsequently be claimed each year.

The Department is considering increasing the minimum area for establishing entitlements to 5ha. The rationale for increasing the minimum size of holding that can establish and claim entitlements is based on the argument that holdings of this scale (i.e. less than 5ha) are unlikely to represent commercial undertakings. Moreover, many of those currently claiming on less than 5ha in Northern Ireland are non-farming landowners.

The number of current direct support recipients that would be affected by a minimum of 5ha is 4,682 of which 2,270 are non-farming landowners (see Table 1). However, 1,253 cattle and sheep farms would also be affected and these account for most of the payment amount that would be excluded. Analysis from the 2012 Agricultural

Census indicates that there are 1,696 (active) farms which are smaller than 5ha (including land taken in conacre) and 3,443 (active) farms which have less than 5ha of owned land and would, therefore, be dependent on rented conacre land to meet a 5ha minimum size requirement. These farms are predominantly cattle and sheep holdings.

One possible consequence of a 5ha minimum size requirement is that businesses which fall below this threshold and want to establish new entitlements would have to increase their area claimed in 2015 to 5ha or more (probably by renting additional conacre land). This is a more likely course of action for active farm enterprises than for non-farming landowners (unless landowners own additional land on which they are not claiming). Given the scale of these operators, this is unlikely to have a discernible effect on the overall land rental market.

Table 1 also presents the current number of direct support recipients that would be affected by a minimum threshold of 4, 3, 2 and 1ha. This information is provided to assist consultees reach a view on their preferred minimum claim size.

On balance, the Department proposes to implement a 5ha minimum for both the establishment of entitlements and eligible claims. A 5ha minimum size requirement would help to ensure that support is given to commercially motivated farms. This is also in line with the Department's broader desire to ensure that, as far as it is practically possible, support is focused on active farmers.

It should be noted that imposing a 5ha minimum for eligible claims would reduce the number of farmers eligible for the Small Farmers' Scheme (see Section 2.23).

**Table 1. Farm Businesses in 2013 with less than 5, 4, 3, 2 and 1 entitlement(s)**

Farm Type	Number of Businesses				
	>5	>4	>3	>2	>1
Cereals	14	9	5	1	0
General cropping	15	9	7	3	0
Horticulture	21	12	10	5	1
Pigs and poultry	44	26	16	7	0
Dairy	13	10	8	4	2
Cattle and sheep LFA	863	558	313	153	42
Cattle and sheep lowland	390	277	175	95	20
Mixed	22	14	5	2	1
Other types	59	42	21	6	0
No match	971	733	502	282	86
Landowners	2,270	1,578	928	305	0
<b>Total</b>	<b>4,682</b>	<b>3,268</b>	<b>1,990</b>	<b>863</b>	<b>152</b>

Farm Type	No. of Entitlements				
	>5	>4	>3	>2	>1
Cereals	48	25	12	2	0
General cropping	50	22	15	5	0
Horticulture	68	26	19	6	1
Pigs and poultry	149	69	34	12	0
Dairy	34	20	13	4	1
Cattle and sheep LFA	2,820	1,449	590	184	25
Cattle and sheep lowland	1,193	684	324	126	13
Mixed	76	42	10	2	1
Other types	202	123	49	9	0
No match	2,739	1,676	875	341	55
Landowners	7,417	4,331	2,074	510	0
<b>Total</b>	<b>14,796</b>	<b>8,467</b>	<b>4,016</b>	<b>1,201</b>	<b>96</b>

Farm Type	Total Amount (€'000s)				
	>5	>4	>3	>2	>1
Cereals	100	47	37	4	0
General cropping	43	19	17	8	0
Horticulture	19	11	8	5	3
Pigs and poultry	112	44	22	9	0
Dairy	37	21	11	7	2
Cattle and sheep LFA	2,054	1,260	669	265	60
Cattle and sheep lowland	952	684	379	161	21
Mixed	59	39	17	4	4
Other types	50	40	22	6	0
No match	1,494	1,115	710	369	102
Landowners	519	303	145	36	0
<b>Total</b>	<b>5,438</b>	<b>3,583</b>	<b>2,037</b>	<b>874</b>	<b>192</b>

### Table 1 Notes

1. Totals may not be exact due to rounding.

**Q8. Do you agree with the Department's suggestion to set (i) the minimum area for which the establishment of entitlements can be requested and (ii) the minimum claim size at 5ha?**

**If not, please state your preferences for the minimum size to be applied to (i) establishing entitlements and (ii) making a claim in terms of area and amount received. Please note that setting no minimum for the establishment of entitlements could result in very small allocations (down to 0.1ha). The mandatory minimum requirement for the claim size has to be set at either 1ha or €100.**

## 2.7 Moving towards a flat rate payment

### 2.7.1 Economic Impact

The move towards a flat rate payment regime will cause redistribution of support by altering the level of direct payment receipts that individual farmers receive. Although decoupled direct payments do not directly influence production levels, they exert indirect influences through wealth effects or by mitigating business risk. The move towards a flat rate support regime is expected to redistribute subsidies away from

more intensive production systems and towards extensive production.

Consequently, this raises the question as to whether, and by how much, production levels might be affected.

Economists from the Agri-Food and Biosciences Institute (AFBI) were asked to examine this issue using the FAPRI-UK<sup>1</sup> (Food and Agricultural Policy Research Institute) model. The FAPRI-UK model captures the dynamic relationships among the variables affecting supply and demand in the main agricultural sectors of England, Wales, Scotland and Northern Ireland. The model is fully incorporated into an EU model run by FAPRI at the University of Missouri, thus ensuring that the model provides Northern Ireland level projections which are consistent with market equilibrium at the EU-level. The modelling system also incorporates changes in EU trade at world prices by using reduced form equations representing the rest of the world.

In the scenario examined by AFBI economists, all countries in the EU moved to a flat rate support regime by 2019, with no countries using the coupled payment option. This can be considered an extreme scenario as many Member States will move only part of the way towards a flat rate by 2019 and some will use the coupled payment option. The benefit of using this extreme scenario is that it highlights the maximum production change that could result from the adoption of a flat rate support regime. The results indicated that moving to flat rate support had a minimal production impact on most sectors at the EU level. The sector most affected was the beef sector. The FAPRI-UK model indicated that as a result of a move to flat rate support by 2019, beef cow numbers in Northern Ireland as a whole might fall by 1.5%, though the fall would be concentrated in the lowland and disadvantaged area (DA), with no significant change in the severely disadvantaged area (SDA). The impact on other sectors in Northern Ireland was minimal.

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<sup>1</sup> Patton, M., Feng, S., Binfield, J. and Davis, J. (2013) 'Impact of CAP Post-2013 Reforms on Agriculture in the UK' Agri- Food & Biosciences Institute: FAPRI-UK Project Report February 2013



## **2.8 Sub-regions**

The agreement permits more than one region to be established in Northern Ireland for the purposes of administering the direct support regime. A budget ceiling would be set for each sub-region and different sub-regional payment rates would be applied. These sub-regional ceilings could be modified in order to permit the transfer of funds between sub-regions. Any number of sub regions is theoretically possible, provided the criteria used to define them are objective and non-discriminatory.

The analyses presented in Tables 2a and 2b illustrate the effects of the key regional/sub-regional regimes that might be considered appropriate for Northern Ireland.

**Table 2a. Distribution of Direct Payments by Farm Type by Model (full flat rate)**

Farm Type	Current Distribution	Single Region	Two Regions (SDA and other)	Three Regions (Moorland, other SDA and other)	Two Regions (Moorland and other)
	(€m)	(€m)	(Model 1) (€m)	(Model 2) (€m)	(Model 3) (€m)
Cereals	4.4	3.7	4.2	4.3	3.9
General cropping	3.7	3.5	3.9	3.9	3.7
Horticulture	1.1	1.2	1.3	1.3	1.2
Pigs and poultry	7.6	6.0	6.4	6.4	6.2
Dairy	61.7	40.5	44.2	44.6	42.5
Cattle and sheep LFA	142.4	141.5	129.6	129.5	137.7
Cattle and sheep lowland	49.8	35.5	40.4	40.4	37.2
Mixed	11.2	8.4	9.4	9.3	8.7
Other types	1.0	1.8	1.9	1.9	1.8
No match	26.3	33.0	33.3	33.4	33.1
Landowners	9.3	43.2	43.6	43.6	42.6
<b>Total</b>	<b>318.5</b>	<b>318.5</b>	<b>318.3</b>	<b>318.6</b>	<b>318.6</b>

**Table 2b. Distribution of Direct Payments by Farm Size by Model (full flat rate)**

Farm Size	Current Distribution	Single Region	Two Regions (SDA and other)	Three Regions (Moorland, other SDA and other)	Two Regions (Moorland and other)
	(€m)	(€m)	(Model 1) (€m)	(Model 2) (€m)	(Model 3) (€m)
Very small	130.9	130.3	126.7	127.8	130.9
Small	61.9	50.6	50.1	49.9	50.3
Medium	31.5	23.6	24.0	23.7	23.4
Large	58.6	37.8	40.6	40.2	38.3
No match	26.3	33.0	33.4	33.4	33.1
Landowners	9.27	43.2	43.6	43.6	42.6
<b>Total</b>	<b>318.5</b>	<b>318.5</b>	<b>318.3</b>	<b>318.6</b>	<b>318.6</b>

**Tables 2a and 2b Notes**

1. SDA Rate €263/ha, DA Rate €374/ha, Lowland Rate €383/ha, Northern Ireland Rate €329/ha.
2. Model 1 - two regions; SDA (€263/ha) and DA + Lowland (€379/ha).
3. Model 2 - three regions; Moorland (€186/ha), other SDA excluding moorland (€288/ha) and DA + Lowland (€379/ha).
4. Model 3 - two regions; Moorland (€186/ha), rest of Northern Ireland (€346/ha).

5. Northern Ireland flat rate is slightly higher than the analysis in Tables 5a and 5b (€326/ha) due to the exclusion of businesses which declared no area to activate entitlements and which therefore cannot be apportioned between regions.
6. Figures quoted for each model are for 2019 and assume a flat rate regime is reached within each sub region by that year. This, therefore, represents the greatest level of redistribution possible within these models.
7. Totals may not be exact due to rounding.

Model 1 ('SDA and other ') splits Northern Ireland into two regions, with one region representing the current severely disadvantaged area (SDA) and the other region representing the rest of Northern Ireland (i.e. disadvantaged area (DA) and lowland). The current average support payments per hectare in the DA and lowland are very similar, meaning that a division between these regions would have very little impact.

Model 2 ('Moorland, other SDA and other') has three regions comprising moorland, other SDA area (excluding moorland) and the rest of Northern Ireland.

Model 3 ('Moorland and other' model) has two regions, one corresponding to moorland area, the other the rest of Northern Ireland. In each case, the current quantum of direct payments payable in each region is ring fenced for that region.

Within any given region, there is a wide range of support rates per hectare that individual farmers currently receive. Therefore, any move towards a flat rate regime will lead to a considerable redistribution within any given region. The multi-region models redistribute approximately 28% of all funds from losers to winners, compared with 30% under a single region flat rate regime.

The analysis in Table 2a shows that all options involving a move toward flat rate support will significantly reduce the level of support to dairy, lowland cattle and sheep and mixed farms compared with the *status quo*. The extent of these losses is greatest under a single region model. However, while the use of multi-region models will mitigate the impact of moving to flat rate support on these farm types, this is achieved by significantly reducing the level of support accruing to LFA cattle and sheep farms (particularly under Models 1 and 2).

Having an SDA region (Model 1) leads to a very significant redistribution of support within that region. Predominantly cattle farms located in the SDA would be particularly adversely affected. Given that SDA cattle and sheep farms operate in the most challenging circumstances in Northern Ireland and at present have, on average, a lower rate of direct support per hectare compared with the Northern Ireland average, this outcome would be difficult to defend. Therefore, any model which has a single SDA region would be problematic.

A possible option to attempt to address this issue would be to sub-divide the SDA region into moorland and other SDA (Model 2), thereby attempting to reduce the extent of this redistribution. However, as shown in Table 2a, both Model 1 and Model 2 lead to a significant reduction in the overall level of support accruing to LFA cattle and sheep farms compared with the *status quo*. Moreover, Table 3 shows that the amount of support going to SDA cattle and sheep farms is very similar to Model 1.

**Table 3. Amount of Direct Payments received by SDA Cattle and Sheep Farms by Model**

<b>Model</b>	<b>Total Amount (€m)</b>
Present	89.0
Flat Rate	100.9
SDA and other (Model 1)	84.4
Moorland, other SDA and other (Model 2)	84.2
Moorland and other (Model 3)	95.3

**Table 3 Notes**

1. There are 8,095 cattle and sheep SDA farms with 309,395 entitlements.

Another option would be a two region model of moorland and other (rest of Northern Ireland). The ‘Moorland and other’ model (Model 3) results in more funds going to SDA cattle and sheep farms compared with the present position. However, the payment rate in the rest of Northern Ireland under this option is only €17/ha higher than it would be under a single region model. Therefore, although having a

moorland region restricts the amount of additional support going to the moorland and results in a better outcome for SDA cattle and sheep farmers compared with Models 1 and 2, there is relatively little benefit for farmers in the rest of Northern Ireland compared with a simple, single region model.

The data in Table 2b indicate how different farm sizes are affected by moving from the current distribution to a flat rate payment per hectare under the various models. Comparing the current distribution with the distribution that results from moving to a flat rate payment under a single region model, it can be seen that, in aggregate, the position of very small farms remains unchanged, while small, medium and large farms lose out on aggregate (the main gainers being non-farming landowners).

There is a greater concentration of large farms in the DA and lowland and very small farms in the SDA which accounts for the small shift in support from very small farms to large farms under Models 1 and 2 compared with a single region model. Model 3 produces a very similar pattern of distribution across the farm size groups as a single region model.

## **2.9 The feasibility of mapping moorland**

The definition of moorland used for the purposes of the above analysis was derived from the Land Cover Map 2007<sup>2</sup> classes indicated in Table 4. An area was classified as moorland if more than 50% of the agricultural land area within a field parcel had this land cover (i.e. the cumulative total of the classes). The DARD land parcel dataset (LPIS) at June 2013 was used to map this agricultural area and reflected the land eligible for SFP at June 2013. Figure 1 shows that under this analysis 141,500ha of this agricultural land was classified as moorland. However, only land falling within the SDA region was defined as moorland for the purposes of this analysis. This amounted to 127,000ha, of which 97,500ha was used to activate SFP entitlements in 2013.

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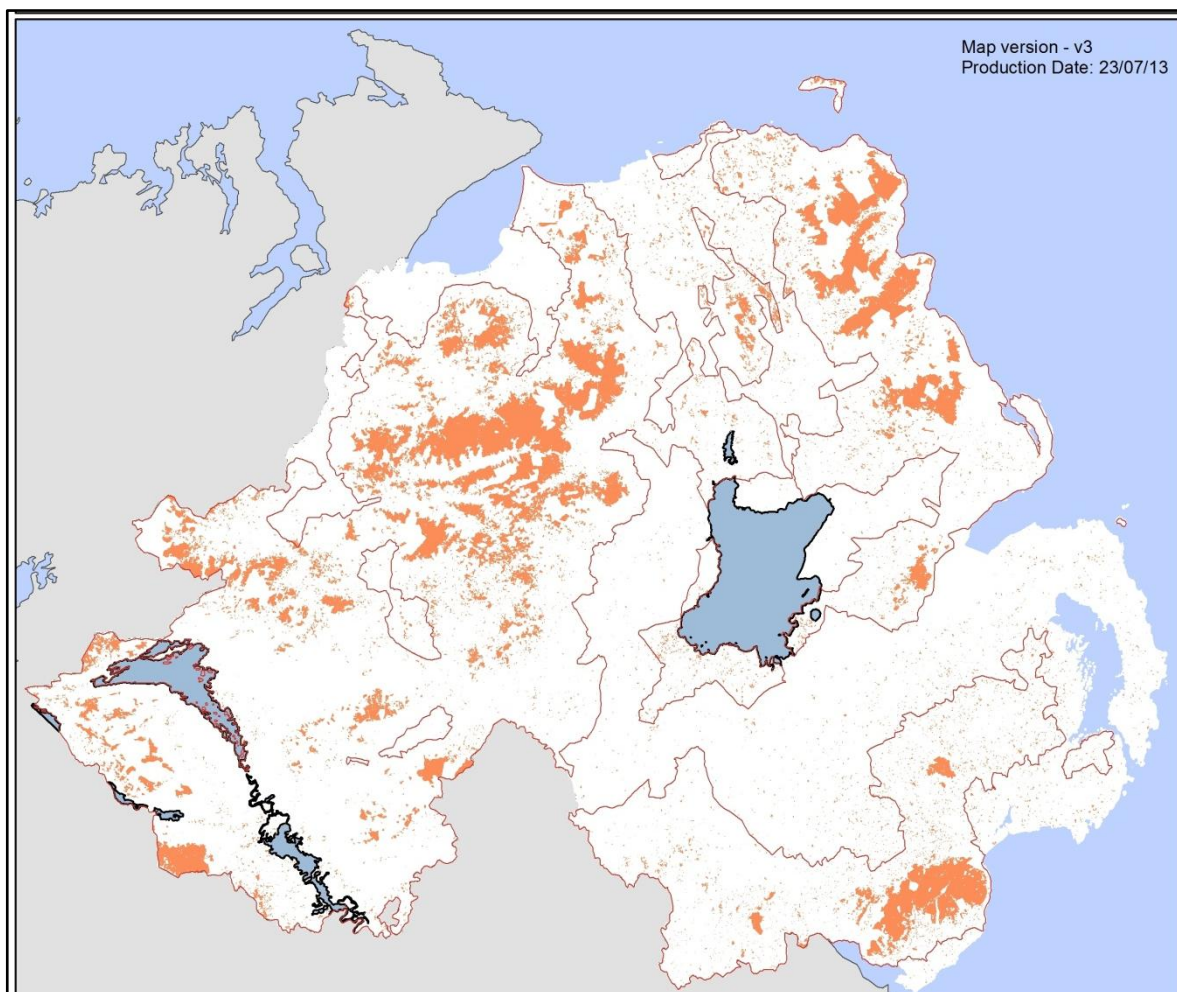
<sup>2</sup> The development of Land Cover Map 2007<sup>2</sup> was an integral part of the Countryside Survey of 2007 which was funded and steered by a partnership of nine government funded bodies led by the Centre for Ecology & Hydrology (CEH) representing the Natural Environment Research Council (NERC) and the Department for Environment, Food and Rural Affairs (Defra). The other funding partners were: Natural England; Welsh Government; Scottish Government; Northern Ireland Environment Agency; Forestry Commission; Countryside Council for Wales; and Scottish Natural Heritage

**Table 4. Land Cover Map 2007 classes used to define moorland**

Broad Habitat	LCM2007 class	LCM2007 class number	Broad Habitat sub-class
<i>'Acid Grassland'</i>	<b>Acid Grassland</b>	8	Acid Bracken
<i>'Fen, Marsh and Swamp'</i>	<i>'Fen, Marsh and Swamp'</i>	9	Fen / swamp
<i>'Dwarf Shrub Heath'</i>	<b>Heather</b>	10	Heather & dwarf shrub Burnt heather Gorse Dry heath
	<b>Heather grassland</b>	11	Heather grass
<i>'Bog'</i>	<i>'Bog'</i>	12	Bog Blanket bog Bog (Grass dom.) Bog (Heather dom.)
<i>'Montane Habitats'</i>	<i>'Montane Habitats'</i>	13	Montane habitats

It is clear from Figure 1, that land parcels where more than 50% of the land is classed as moorland are widely dispersed and whilst this is sufficient for policy analysis purposes, a major 'ground truthing' exercise would be required before a robust moorland area could be defined for the purposes of administering Pillar I direct support payments under a multi-region model. Achieving that within the available time for the implementation of this round of CAP reform is not a realistic proposition.

**Figure 1. Moorland map used in the analysis (see footnote 2)**



The conclusions from the foregoing analysis (in Sections 2.8 and 2.9) are that:

- Any move towards flat rate support will lead to a redistribution of support.
- In general terms, intensive production systems will receive less support and extensive production systems will gain support.
- A single region model will reduce the level of support going to small, medium and large farm types, with no change for very small farms. Models 1 and 2 will lead to a small shift in support away from very small to large farms compared with a single region model. The distribution of support by farm size under Model 3 is very similar to that under a single region model.
- Under a single region model, the dairy, lowland cattle and sheep and mixed farm types will experience significant reductions in support.

- Multi-region models will mitigate the level of support reduction to dairy, lowland cattle and sheep and mixed farm types, but at the expense of LFA cattle and sheep farms.
- Multi-region models involving an SDA region would produce particularly challenging redistribution patterns within the SDA region and lead to a significant loss of support to predominantly cattle farms in the SDA, which would be difficult to defend.
- Sub dividing the SDA into moorland and other SDA (Model 2) produces a very similar outcome to Model 1 (SDA and other). Therefore, it does not address the issue of a significant loss of support to predominantly cattle farms within the SDA.
- A 'moorland and other' model (Model 3) results in an overall gain to SDA cattle and sheep farms, but the benefits of this to other parts of Northern Ireland compared with a single region model would be very modest.
- But crucially, the challenge of defining a robust moorland area for the purposes of administering the direct payments regime would be very substantial and could not realistically be delivered within the timeframe available for the implementation of CAP reform.

Therefore, on the basis of the foregoing analysis and conclusions, the Department does not propose to divide Northern Ireland into sub-regions for the purposes of administering the direct support regime.

**Q9. Do you agree with the Department's proposal not to use sub-regions in Northern Ireland? If not, please explain why and outline your preferred approach.**



## **2.10 Rate of internal convergence**

The agreement requires that there is movement in the unit value of Basic Payment Scheme (BPS) entitlements towards a flat or common rate of payment per hectare within a defined region from the current unit values under SFP (which were largely determined by coupled payment receipts of individual farm businesses during the period 2000 to 2002 together with milk quota held on 31 March 2005).

Member States and regions have the option to move immediately to paying the Basic Payment on a flat rate basis in 2015. The Department has sought throughout the negotiations to secure the option to deliver a smooth and orderly transition towards a flat rate support regime. Therefore, the Department does not propose implementing this option because it would create an abrupt and damaging redistribution of direct payments, leaving farm businesses very little time to prepare and adjust, particularly for those that face a substantial reduction in the level of support per hectare.

## **2.11 Calculation of initial unit value of entitlements in transition calculations**

If the option to move immediately to a flat rate support regime is not taken up and entitlements are reallocated, then the initial unit value of BPS payment entitlements to be allocated to an individual farm business in 2015 will be calculated by dividing either the total value of SFP entitlements held or the total value of entitlements activated (i.e. payments made prior to any deductions) by that business in 2014 by the total area of eligible land used by the business to establish entitlements in the first year of the new regime (2015). The Department proposes to use the total value of SFP entitlements held in 2014. It is recognised that many businesses hold a slightly larger number of SFP entitlements than they activate each year. It is also administratively simpler to use the number of entitlements held as the validation of areas declared in 2014 will not change that value but could affect the value of entitlements activated.

One potential disadvantage of using entitlements held is that businesses could seek to acquire additional SFP entitlements for the 2014 scheme year (but not necessarily activate them) in order to boost the value of the BPS entitlements allocated in 2015. However, the availability of SFP entitlements and their purchase price will serve to

constrain this activity. Moreover, introducing a requirement that the entitlements be activated in 2014 before they are taken into account in the calculation of the value of new BPS entitlements risks introducing distortion to the land rental market in 2014 (especially given the fact, as noted above, that many businesses already hold more entitlements than they claim).

### **2.12 Full transition to a flat rate payment per hectare in 2019**

Under the agreement, Member States and regions have the option to adjust the value of BPS entitlements from their initial value calculated in 2015 to a flat rate by 2019 through a series of equal annual steps. Adjustment will obviously be difficult for those businesses facing a significant reduction in direct payments, but the Department is not opposed to the principle of moving towards a flat rate regime provided businesses are given adequate time to adjust. A full transition to a flat rate regime within five years would undoubtedly be challenging for many businesses and, therefore, the Department is not proposing to implement this option.

### **2.13 Partial transition towards a flat rate**

The minimum possible level of transition towards a flat rate support regime under the agreement is to increase the unit value of those BPS entitlements falling below the regional average by one third of the difference between their initial unit value and 90% of the regional average unit value by 2019, subject to no entitlement having a unit value lower than 60% of the regional average by that date. Adjustments must be made in equal intermediate steps from 2015 to 2019. The increases for these entitlements falling below the regional average value will be financed by applying reductions to those above the regional average. The Department calculates that this minimum option would achieve a 39% transition towards a flat rate payment in 2019.

However, consistent with the position adopted during the CAP Reform negotiations, the Department is of the view that by 2019 (i.e. after 5 years), we should as a minimum seek to achieve a 50% transition towards a flat rate support regime.

Consequently, the Department proposes to increase the initial unit value of those BPS entitlements falling below the regional average by one half of the difference between their initial unit value and the regional average, while respecting the

requirement that no entitlement should have a unit value lower than 60% of the regional average by 2019.

#### **2.14 Method of reduction to be applied to the unit value of entitlements above the regional average**

As indicated above, the funds required to increase the unit value of below average entitlements are obtained by reducing the unit value of entitlements which are above the regional average. There is considerable flexibility in exactly how this is applied, provided the unit values of entitlements are not reduced below the regional average and sufficient funds are generated to fund whatever increase is decided for low value entitlements. There is an option in the agreement which would allow the Department to limit the reduction of entitlement values to 30% below their initial 2015 unit value (i.e. the unit value of any entitlement would not be allowed to fall by more than 30% by 2019 compared with their initial 2015 value). However, in practice, this means that in order to implement this option or any other option using a different percentage limit, the unit value of other above average entitlements would have to be reduced by a greater amount than would otherwise be the case in order to fund the increase for low value entitlements. This would be difficult to justify. Moreover, it would deviate from the Department's position that, as far as possible, all entitlements should migrate toward a flat rate value through a smooth and orderly transition. Slowing down the rate of transition for some now would potentially mean a more rapid transition to full flat rate post 2019.

Therefore, the Department proposes that for all entitlements above the regional average value, a linear reduction should be applied to the difference between the initial unit value of the entitlement in 2015 and the regional average value which would take place in equal steps over the 5 year period from 2015 to 2019. (Note: this reduction is not applied to the entire unit value of the entitlement but rather to the amount that is above the regional average).

## **2.15 Summary of payment model suggested by DARD**

In summary, the Department suggests that the following payment model should be implemented in Northern Ireland:

- A single region;
- Initial unit value of Basic Payment Scheme (BPS) entitlements would be calculated by dividing the value of SFP entitlements held in 2014 by the number of BPS entitlements (eligible area) established in 2015;
- BPS entitlements below the regional average would be increased by 50% of the difference between their initial unit value and regional average by 2019 in equal annual steps (but must reach at least 60% of the regional average by 2019); and
- For BPS entitlements above the regional average, a linear reduction would be applied to the difference between the initial unit value and the regional average in equal annual steps. The linear reduction would be approximately 50% in total by 2019 (subject to providing sufficient funds to meet the requirements of increasing the value of below average entitlements).

## **2.16 Impact on distribution of direct payments**

In making this proposal, the Department has considered the impact of these options on farm businesses by type and size. This is shown in Tables 5a and 5b.

**Table 5a. Distribution of Direct Payments by Farm Type (one region in Northern Ireland)**

Farm Type	Number of farms	No. of Entitlements (‘000s)	Current Distribution (€m)	Distribution Under Flat Rate Model (€m)	Distribution Under Minimum Adjustment Model (€m)	Distribution Under Half Way Model (€m)
Cereals	275	11.4	4.4	3.7	4.0	4.0
General cropping	326	10.8	3.7	3.5	3.6	3.6
Horticulture	186	3.7	1.1	1.2	1.2	1.2
Pigs and poultry	585	18.4	7.6	6.0	7.0	6.8
Dairy	2,605	124.2	61.7	40.5	53.2	51.1
Cattle and Sheep LFA	13,239	434.1	142.4	141.5	139.5	142.0
Cattle and Sheep (LL)	4,095	109.0	49.8	35.5	44.0	42.7
Mixed	597	25.8	11.2	8.4	10.1	9.8
Other types	324	5.5	1	1.8	1.3	1.4
No match	5,227	101.3	26.3	33.0	28.7	29.7
Landowners	9,504	132.6	9.3	43.2	25.9	26.3
<b>Total</b>	<b>36,963</b>	<b>976.8</b>	<b>318.5</b>	<b>318.5</b>	<b>318.5</b>	<b>318.5</b>

**Table 5a Notes**

1. Flat Rate Model - Single flat rate payment in Northern Ireland (€326/ha).
2. Minimum Adjustment Model - All BPS entitlements below 90% of the regional average increased by 1/3rd of the difference. A 39% reduction applied to the portion of the unit value of BPS entitlements which is above the regional average.
3. Half Way Model - All BPS entitlements below the regional average increased by 50% of the difference. A 50% reduction applied to the portion of the unit value of BPS entitlements which is above the regional average.
4. Figures quoted are for 2019 with the exception of the current distribution.
5. Totals may not be exact due to rounding.

Table 5a shows how the current distribution of payments to each farm type would change under the different payment options available. The greatest degree of redistribution occurs under the option where direct payments move to a full flat rate

basis. The redistribution under the other two models is significantly less. The difference between the Half Way Model and the Minimum Adjustment Model is small.

Table 5b shows the distribution of current entitlements across different farm sizes and how the current distribution of payments to each farm size would change under the different payment models. Again, the greatest degree of redistribution occurs under the option where direct payments move to a full flat rate basis. The Minimum Adjustment Model involves much less redistribution. The Half Way Model shows a small difference by farm type compared with the Minimum Adjustment Model.

**Table 5b: Distribution of Direct Payments by Farm Size (one region in Northern Ireland)**

<b>Farm Size</b>	<b>Number of farms</b>	<b>No. of Entitlements</b> <b>('000s)</b>	<b>Current Distribution</b> <b>(€m)</b>	<b>Distribution Under Flat Rate Model</b> <b>(€m)</b>	<b>Distribution Under Minimum Adjustment Model</b> <b>(€m)</b>	<b>Distribution Under Half Way Model</b> <b>(€m)</b>
Very small	16,641	399.7	130.9	130.3	128.4	130.6
Small	2,960	155.2	61.9	50.6	56.9	56.3
Medium	1,158	72.2	31.5	23.6	28.2	27.5
Large	1,473	115.8	58.6	37.8	50.4	48.2
No match	5,227	101.3	26.3	33.0	28.7	29.7
Landowners	9,504	132.6	9.3	43.2	25.9	26.3
<b>Total</b>	<b>36,963</b>	<b>976.8</b>	<b>318.5</b>	<b>318.5</b>	<b>318.5</b>	<b>318.5</b>

**Table 5b Notes**

1. Minimum Adjustment Model - All BPS entitlements below 90% of the regional average increased by 1/3rd of the difference. A 39% reduction applied to the portion of the unit value of BPS entitlements which is above regional average.
2. Half Way Model - All entitlements below the BPS regional average increased by 50% of the difference. A 50% reduction applied to the portion of the unit value of BPS entitlements which is above the regional average.
3. Figures quoted are for 2019 with the exception of the current distribution.
4. Totals may not be exact due to rounding.

**Q10. Do you agree with the Department's suggestion not to pay the Basic Payment as a flat rate payment from 2015? If not, please explain why.**

**Q11. Do you agree with the Department's suggestion to use 'entitlements held' in 2014 as the basis for calculating a claimant's initial Basic Payment per hectare? If not, please explain why.**

**Q12. Do you agree with the Department's suggestion not to move to a system of flat rate payments by 2019? If not, please explain why.**

**Q13. Do you agree with the Department's suggestion to increase the unit value of those entitlements below the regional average by one half of the difference between their initial unit value and 100% of the regional average, while respecting the requirement that no entitlement should have a unit value lower than 60% of the regional average by 2019? If not, please explain why and outline your preferred alternative.**

**Q14. Do you agree with the Department's suggestion for entitlements above the regional average to apply a linear decrease to the difference between the initial unit value and the regional average? If not, please explain why and outline an alternative method.**

### **2.17 National/Regional Reserve**

The Department intends to establish a Regional Reserve, which will be financed and operated independently at a regional level. The Regional Reserve is financed by reducing the funds available for the Basic Payment Scheme (BPS) and is defined as the difference between the BPS budget ceiling and the value of BPS entitlements held by farmers. The percentage reduction to be applied to create the initial Regional Reserve cannot be higher than 3%, except if required to meet the needs of young farmers, new entrants or, if so decided, farmers in areas subject to restructuring in 2015. The percentage reduction applied to create the Regional Reserve will be decided by the Department based on demand.

The Regional Reserve must be used to allocate payment entitlements to new entrants and young farmers. The Department has the discretion to set objective and non-discriminatory eligibility criteria as regards the appropriate skills, experience and/or education of the claimant when making allocations to young farmers and new entrants. The attraction of setting additional criteria such as a formal agricultural qualification is that it encourages and rewards educational attainment in the agricultural workforce, which is beneficial for the future development of the industry. An additional benefit is that such criteria would help prevent Regional Reserve awards being made to new entrants who exercise no agricultural activity other than maintaining land in good agricultural and environmental condition.



A potential disadvantage is that it could rule out some new entrants or young farmers who have practical farming experience but do not have the formal qualifications to meet the criteria.

On balance, the Department is of the view that the additional educational criteria should be used and proposes setting the same eligibility criteria for new entrants and young farmers to receive awards from the Regional Reserve as would be used for eligibility for the Young Farmers' Scheme (see Section 2.19). The Department proposes that young farmers and new entrants applying to the Regional Reserve must have a Level III educational qualification in agriculture or a closely related subject. This is the lowest level of educational attainment appropriate to those having a supervisory or basic farm management role in running a farm business. The Department considers that if a young farmer or new entrant currently possesses **either** a minimum of five years farming experience **or** a Level II qualification, then a Level III qualification could be achieved by the completion of an additional two modules consisting of, for example, a combination of 'Challenge Programmes' taken part-time over a number of evening classes. Therefore, any shortfall in formal educational attainment could quickly be rectified and rewarded. A young farmer or new entrant with less than 5 years farming experience and no Level II qualifications would be required to take the necessary steps to obtain a Level III qualification before being able to apply to the Regional Reserve for an award under this category.

The Department proposes also to use the Regional Reserve to allocate entitlements to those prevented from receiving BPS entitlements due to *force majeure* or exceptional circumstances and also, if necessary (and should sufficient funds be available), to meet any funding shortfall for the Young Farmers' and Small Farmers' Schemes.

The Department also has an option to use the Regional Reserve to allocate entitlements to farmers in areas subject to restructuring where there is a need to prevent land abandonment and/or compensate for specific disadvantages. This provision has been in existence for some time and there has been no demand to date for it to be used. Therefore, the Department is not aware of any strong arguments in favour of using this provision and does not propose to make use of it at

this stage. That position can be re-examined at a future date should circumstances change.

If the option to retain existing SFP entitlements were exercised and some farmers declared areas in 2015 in excess of entitlements held, then the agreement provides an option to make an award to these farmers from the Regional Reserve to correct for this shortfall. As the Department proposes to re-issue entitlements in 2015 (see Section 2.4), this option is not relevant. However, if the decision is taken to retain existing entitlements, then the Department would propose implementing this option.

**Q15. Do you agree with the Department's suggestion not to use the Regional Reserve to allocate entitlements to farmers in areas subject to restructuring where there is a need to prevent land abandonment and/or compensate for specific disadvantages?**

**Q16. Do you agree that Regional Reserve funds should be used to make payments in cases of *force majeure* or where exceptional circumstances exist?**

**Q17. What are your views on the Department's suggestion to make a Level III qualification in agriculture (or a closely related subject) a requirement for young farmers and new entrants to receive an award from the Regional Reserve?**

## **2.18 Greening**

Farmers who participate in the Basic Payment Scheme must, where applicable, adhere to three greening measures (crop diversification, permanent grassland retention and provision of Ecological Focus Areas - EFAs) which produce beneficial outcomes for the climate and the environment. Under the agreement, 30% of the direct payments budget ceiling will be devoted to the greening payment.

There are two options for applying the greening payment. Under one, the payment can be made on a flat-rate basis calculated by dividing 30% of the direct payment ceiling by the total area of land claimed under the Basic Payment Scheme (BPS) within the region each year. Under the other, the payment can take the form of a percentage of the value of the BPS entitlements activated by the each claimant each year. This means that the value of the greening payment for each claimant would progress over time towards a flat rate payment per hectare in line with the progression of the claimant's BPS entitlements.

The Department proposes to apply the second of these two options because it provides a smoother transition towards an overall flat rate payment per hectare for direct support and prevents the shock of a large redistribution in 2015 which would result from 30% of the budget being paid immediately on a flat rate basis per hectare.

The information in Tables 6a and 6b shows the levels of redistribution in 2015 and 2019 under the two models for the greening payment, i.e. flat rate v linked to BPS. In Tables 6a and 6b, we can see that the level of redistribution by 2019 is greater if the greening payment is made as a flat rate. More significantly, under the flat rate greening model, most of the redistribution has occurred by 2015, whereas for the linked model, the level of redistribution is much less in this initial year.

**Table 6a. Distribution of Direct Payments by Farm Type (one region in Northern Ireland, Half Way Model) with Flat Rate or Linked Greening Payment**

Farm Type	Total Amount Present (€m)	Greening Linked	Greening Flat Rate	Greening Linked	Greening Flat Rate
		(€m)	(€m)	(€m)	(€m)
		2015	2015	2019	2019
Cereals	4.3	4.3	4.1	4.0	4.0
General cropping	3.7	3.7	3.7	3.6	3.6
Horticulture	1.1	1.1	1.2	1.2	1.2
Pigs and poultry	7.6	7.4	7.0	6.8	6.6
Dairy	61.7	59.6	53.7	51.1	47.9
Cattle and sheep LFA	142.4	142.3	142.1	142.0	141.8
Cattle and sheep lowland	49.9	48.4	44.5	42.7	40.5
Mixed	11.2	11.0	10.2	9.8	9.4
Other types	1.0	1.1	1.3	1.4	1.5
No match	26.3	26.9	28.8	29.7	30.7
Landowners	9.3	12.7	22.0	26.3	31.5
<b>Total</b>	<b>318.5</b>	<b>318.5</b>	<b>318.5</b>	<b>318.5</b>	<b>318.5</b>

**Table 6b. Distribution of Direct Payments by Farm Size (one region in Northern Ireland, Half Way Model) with Flat Rate or Linked Greening Payment**

Farm Size	Total Amount Present (€m)	Greening Linked	Greening Flat Rate	Greening Linked	Greening Flat Rate
		(€m)	(€m)	(€m)	(€m)
		2015	2015	2019	2019
Very small	130.9	130.8	130.7	130.6	130.5
Small	61.9	60.8	57.7	56.3	54.5
Medium	31.5	30.7	28.5	27.6	26.3
Large	58.6	56.5	50.8	48.2	45.0
No match	26.3	27.0	28.8	29.7	30.7
Landowners	9.3	12.7	22.0	26.3	31.5
<b>Total</b>	<b>318,5</b>	<b>318.5</b>	<b>318.5</b>	<b>318.5</b>	<b>318.5</b>

**Table 6a and 6b Notes**

1. Flat rate greening payment €99.82/ha and One Region Half Way Model implemented.
2. Totals may not be exact due to rounding.

The three requirements under greening are<sup>3</sup>:

- Crop diversification. This applies to arable land (defined as land which has been cropped within the previous five years). Claimants with less than 10ha of arable land are exempt from crop diversification. Those with between 10ha and 30ha of arable land, must grow at least two crops, with no one crop accounting for more than 75% of the arable land. Those with 30+ha of arable land must grow at least three crops, the main crop not exceeding 75% of the area and the two main crops together not exceeding 95%. Grass counts as a crop type, with winter and spring crop varieties counting as separate crop types. There is an exemption from this requirement for farms comprising more than 75% grassland (or where more than 75% of the arable land is in grass), providing the remaining arable area on these farms does not exceed 30ha.
- Retention of permanent grassland. Permanent grassland is defined as land which has not been part of an arable rotation in the previous five years. The agreement requires that the ratio of permanent grassland to total agricultural area shall be maintained and that this ratio shall not decrease by more than 5% compared with the ratio in 2012. The ratio can be monitored at national, regional or sub-regional level. Member States/regions can decide to apply an obligation to maintain permanent grassland at individual holding level in order to ensure that the overall ratio does not fall by more than 5%.

The Department proposes to monitor the permanent grassland ratio at regional (Northern Ireland) level and not to impose restrictions at individual holding level. The level of permanent grassland has been stable in Northern Ireland for many years at around 90% of total agricultural area. Therefore, imposing an obligation at individual level is unlikely to achieve anything other than increase bureaucracy and cause difficulties for farmers growing crops. However, if a decrease of permanent grassland of more than 5% were to occur, then individual farmers would be obliged to reconvert land back to permanent grassland (with the exception of land converted to forestry).

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<sup>3</sup> Note that the requirements described here reflect only the main elements of greening and do not include some of the more technical and complex aspects of the requirements and exemptions.

Member States/regions are required to designate permanent grasslands that are environmentally sensitive and which fall within areas covered by the Habitats and Birds Directives. These designated permanent grassland areas will be subject to a ploughing and conversion ban. There is an option to extend this designation of sensitive permanent grasslands to other areas falling outside of those covered by the Habitats and Birds Directives. The Department has no plans at this point to implement this option.

- Ecological Focus Area (EFA). Farms with more than 15ha of arable land must maintain at least 5% of this area as an EFA. There is an exemption from this requirement for farms comprising more than 75% grassland (or where more than 75% of arable land is in grass), providing the remaining arable area on these farms does not exceed 30ha. The 5% requirement for EFA will be reviewed by the EU Commission in 2017 and if deemed appropriate, an increase to 7% may be proposed.

Member States and regions have a choice of the land uses and practices that can be used by farmers to count towards their EFA obligation. These are:

1. Land lying fallow;
2. Terraces;
3. Landscape features;
4. Buffer strips including those covered by permanent grassland provided they are distinct from adjacent eligible areas;
5. Agro-forestry supported under past or current rural development measures;
6. Strips of eligible hectares along forest edges;
7. Areas with short rotation coppice with no use of mineral fertiliser and/or plant protection products;
8. Areas afforested under rural development measures for the duration of the commitment;
9. Areas with catch crops, or green cover established by the planting and germination of seeds; and
10. Areas with a nitrogen fixing crop.

The Department proposes to permit the use of landscape features, land lying fallow, agro-forestry and afforested land as described above. The Department does not intend to permit the use of terraces and strips of eligible hectares along forest edges (neither are relevant in Northern Ireland). Whether the remaining options will be permitted will depend to a significant extent on implementation rules which are not yet available and whether appropriate controls can be put in place.

Under the agreement, there is an option to apply weighting factors when calculating the contribution of the individual EFA features (described above) in meeting the total EFA obligation at farm level. For example, a hedgerow may have its length converted to an area equivalent by the application of an agreed multiplier for the purposes of meeting the EFA requirement. These multipliers would reflect the ecological benefit and contribution to the environment of the EFA feature. The Department has not decided whether to use this option and more detail should emerge when the EU Commission's implementing regulations become available. Greater clarification of how the weighting factors might work is needed before a decision can be made on their possible deployment.

There is an option to permit a group of not more than 10 farmers whose holdings are in close proximity to fulfil the EFA requirement on a collective basis, provided the EFA is contiguous. Individual participants in this arrangement would have to ensure that at least 50% of their EFA obligation is in, or is adjacent to, arable land declared by them. This is a complex mechanism which could raise difficult compliance and control issues and the potential benefits are unclear. Therefore, the Department does not propose to offer this option.

There is a further option to implement up to 50% of the EFA obligation at regional level in order to obtain adjacent EFA areas. Member States and regions would have to designate the areas and the obligations for farmers or groups of farmers participating. More detail on how this option would work is

required. At this stage, it appears extremely complicated and the Department is not at this stage proposing to deploy this option.

Under the agreement, there is an option which permits Member States/regions to allow farmers to use 'equivalent practices' to qualify for the greening payment rather than adhering to the three standard greening requirements. Under this option, farmers could meet their greening requirements through participation in agri-environmental schemes and/or national environmental certification schemes where the practices required of farmers under these schemes are deemed to deliver a level of benefit for the climate and the environment that is equivalent to, or higher than, the standard greening requirements. This would require such schemes to be developed with suitable adjustments to ensure that double funding does not occur.

After careful consideration, the Department believes that adopting such an approach would impose additional bureaucratic burdens and obligations on farmers in Northern Ireland beyond the likely greening requirements being placed upon their competitors elsewhere in the EU. The concept of greening was not developed with the terrain or land management practices of Northern Ireland in mind, as evidenced by the fact that it is targeted primarily at arable farming (which accounts for only 6% of agricultural land use here). Moreover, there remains very considerable uncertainty as the practical application of equivalent measures, both in terms of their definition (which would be subject to EU Commission approval), and their implementation and control. Therefore, it is the Department's opinion that adopting the standard greening measures will provide the best means by which Northern Ireland farmers can meet the required environmental obligations while also taking into account the broader impact upon their businesses. Consequently, the Department does not propose to implement this option.

**Q18. Do you agree with the Department's suggestion to operate the greening payment as a percentage of the total value of BPS entitlements activated by an individual farmer rather than as a flat rate payment?**

**Q19. Do you agree with the Department's suggestion to monitor the permanent grassland requirement at regional level rather than farm level?**



**Q20. Do you agree with Department's suggestion not to expand the ploughing ban beyond the areas of permanent grassland covered by the Habitats and Birds Directives as specified in the EU Commission regulation?**

**Q21. What are your views on which areas should be eligible for use as EFA?**

**Q22. What is your view on whether or not to use conversion factors in the EFA conversion matrix in determining the area of land which counts as EFA?**

**Q23. Do you agree with the Department's suggestion not to make use of the option to allow groups of farmers to use collective arrangements for up to 50% of their EFA obligation?**

**Q24. Do you agree with the Department's suggestion not to make use of the option to implement up to 50% of the percentage points of the EFA at regional level?**

**Q25. Do you agree with the Department's suggestion not to make use of the 'equivalence' option?**

## **2.19 Payment for Young Farmers**

The Young Farmers' Scheme is a mandatory component of the direct payments support framework. The Scheme will be financed by reserving up to 2% of the direct payments budget ceiling for this purpose. The Scheme provides a 'top-up' to the Basic Payment Scheme for those who qualify as a 'young farmer'. A young farmer is defined as: an individual (not company or partnership – though this may be subject to change depending on how the EU Commission define the conditions in the final regulations); not more than 40 years of age in the year first application for Basic Payment Scheme is made; has set up as head of holding within the previous five years; and, as an option, meets additional eligibility criteria such as educational qualifications (or skills/training) as may be defined by the Department. The young farmer may claim the top-up for a maximum of five years, or a shorter period depending on the number of years passed since setting up as head of holding.

The Department proposes to include an additional eligibility condition that would require young farmers to hold a Level III educational qualification in agriculture or a closely related subject. As indicated earlier in respect of the Regional Reserve young farmer/new entrant provision (see Section 2.17), this seeks to encourage and reward the attainment of formal qualifications and the development of a professional industry, as well as helping prevent additional support going to non-farming landowners.

There are four options available to decide on the level of the payments under this Scheme (though the overall budget will be constrained to 2% of the direct payments ceiling). These options are as follows:

1. 25% of the average value of BPS payment entitlements held by the young farmer multiplied by the number of entitlements activated by the young farmer.
2. 25% of the average value of BPS entitlements in the Member State/region multiplied by the number of entitlements activated by the young farmer.
3. 25% of the national/regional average direct payment per hectare (counting all direct payments) multiplied by the number of entitlements activated by the young farmer.

4. An annual lump sum per holding, which is set in the first year (2015). The lump sum is calculated by dividing the total number of eligible hectares declared by young farmers under this Scheme by the total number of young farmers applying and then multiplying this by 25% of the national/regional average direct payment per hectare (counting all direct payments).

Note that under the first three options, there is a requirement to set a limit on the number of hectares on which the payment can be made and this shall not be lower than 25ha or higher than 90ha.

The Department proposes to implement Option 1 which would give young farmers a top-up of 25% based on their own claim rather than the regional average. It is expected that most young farmers will take over an existing business which has historic entitlements based on previous production and, therefore, it is more appropriate that their top-up is based on that business's claim history. The Department is not aware of any strong arguments for imposing a limit below 90ha on the number of hectares to which the young farmer payment can be made and therefore, proposes applying a 90ha limit.

**Q.26. What are your views on the Department's suggestion to make a Level III qualification in agriculture (or related subject) a requirement for Young Farmers' Scheme eligibility?**

**Q27. Do you agree that the level of top-up payment received by a young farmer should be based on 25% of the young farmers own average BPS payment per hectare (before top-up is made)? If not, please explain why.**

**Q28. Do you agree that the top-up payment per hectare for young farmers should be limited to 90 hectares? If not, please explain why.**

## **2.20 Payment for Areas with Natural Constraints (ANC)**

Member States (or regions) have an option to grant an additional payment to those farmers claiming the Basic Payment Scheme in Areas with Natural Constraints (as defined under the Rural Development Regulation<sup>4</sup>). Up to 5% of the direct payments budget ceiling can be re-directed for this purpose. In a Northern Ireland context, this would equate to approximately €16.25m per annum. The additional payment can be confined to part of the ANC and to a maximum number of hectares per holding. This measure does not affect the availability of support for ANCs under the Rural Development Regulation (although the level of payments made under the latter needs to take account of any payments made under this option).

There are outstanding issues regarding support for ANCs which will need to be clarified and a number of complex Pillar I/II interactions resolved. The main policy issue is whether spending in support of ANCs is designed to boost incomes or to deliver environmental benefits. If it is the former, then income support may be best addressed through Pillar I and if it is the latter, consideration may need to be given to addressing this through Pillar II agri-environment (AE) support.

As indicated earlier, moving Pillar I towards a flat rate support regime will favour farms that, under the old coupled regimes, were lightly stocked and/or claimed relatively little direct support per hectare. This would tend to be characteristic of SDA holdings (though there would be individual holdings in the SDA with high levels of support per hectare). Moving immediately to a full flat rate support regime in Northern Ireland could shift €29m (£24.6m) per year into the current SDAs<sup>5</sup>. Moving half way towards a flat rate regime by 2019 (the Department's proposed action) would shift €14m per year into the current SDA by 2019. Therefore, the redesign of Pillar I support will naturally move additional monies into the SDA and reduce the need for additional action to support incomes.

A comprehensive review of support arrangements for the Less Favoured Areas was undertaken in 2009/10. This review concluded that farming in the LFAs is dominated

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<sup>4</sup> The designation of Areas of Natural Constraint on the basis of objective biophysical criteria will replace Less Favoured Areas under the new Rural Development Regulation

<sup>5</sup> 2012 SDA payout under LFACA Scheme was £19.8 million, including cattle top-up and payments on common land

by beef cattle and sheep production and that limited opportunities for alternative farming opportunities exist. Valuable habitats (and landscapes) are located primarily in the SDAs and these habitats are sustained by agricultural activity. There is a growing risk (and evidence) of under-grazing and neglect and an increasing risk of limited land management or even land abandonment (i.e. an environmental challenge). The evidence, at that time, suggested a need for a continuing support mechanism which had a clear focus on contributing, through active management of agricultural land, to delivering positive environmental outcomes and, in particular, avoiding environmental degradation and land abandonment. Given the current direction of CAP reform, the question now is whether this outcome would be better achieved via a targeted AE-type measure rather than a Pillar II ANC measure.

The draft Rural Development Regulation provides for a payment to be made to farmers in the ANC to compensate for all or part of the additional costs and income forgone arising from the biophysical constraints affecting agricultural production in the area. Any Pillar II payments must also be degressive above a threshold of area per holding. Provision exists for a transition payment for farmers who are no longer eligible for an ANC payment in the 2014-2020 period but were eligible for LFA support prior to redesignation.

From this, and from discussions with the EU Commission, it is clear that a Pillar II ANC scheme would be primarily an income support measure, where the levels of support given are dictated by the additional costs associated with farming in those areas. The level of support cannot be linked to the additional costs or income forgone in delivering environmental outcomes. Therefore, addressing the broad environmental issues in the ANC (as outlined above) would seem to be more appropriate to an agri-environment scheme and the priority given to addressing these would need to be considered against other agri-environment priorities.

If ANC support is viewed in policy terms as primarily an income support payment to which no significant environmental conditions can be attached, then such income issues would better be addressed directly by using the flexibilities that exist in the design of Pillar I support.

As indicated above, the move towards flat rate support will, of itself, shift €14m per year to the SDA by 2019 (a €2.8m increase year-on-year from 2015) under the Department’s proposed approach. The ANC top up in Pillar I could provide up to an additional €16.25 million per annum for the ANC and it is possible to target that further within the ANC if desired. At this point, the Department is proposing that support arrangements for LFAs in the 2014 claim year will remain unchanged and be paid in the spring of 2015 under the RDP transition arrangements. Therefore, new arrangements will need to commence from the 2015 Scheme year.

**Table 7. Advantages and Disadvantages of Paying Support to Areas of Natural Constraint via Pillar I**

<b>Advantages of paying ANC support via Pillar I</b>	<b>Disadvantages of paying ANC support via Pillar I</b>
<ul style="list-style-type: none"> <li>• No need for a separate scheme/scheme that is simple to administer</li> <li>• Limits need for high Pillar I transfers to Pillar II to fund a Pillar II ANC measure</li> <li>• No degressivity needed (unlike Pillar II option)</li> <li>• No need to justify level of ANC support using costs incurred and income forgone</li> </ul>	<ul style="list-style-type: none"> <li>• More difficult to ensure payments are going to active farmers</li> <li>• Cannot use this to drive low level AE outcomes within ANC (but very limited scope now available under Pillar II to pursue this)</li> <li>• May require development of alternative AE measure for ANCs</li> </ul>

Given the rationale for ANC support and the Pillar I flexibilities, the Department is proposing that it is better to pursue ANC support via Pillar I. At this stage the Department welcomes views on the approach to supporting these areas.

To enable this new approach, designation of the ANCs, as required under Article 33 of the draft Rural Development Regulation, would need to be in place from 1 January 2015. The Department intends to issue a consultation on this designation within the next two months.

**Q29. Do you agree with the Department's suggestion to provide support to Areas of Natural Constraint (ANCs) via Pillar I from 2015 scheme year?**

**Q30. If so, what percentage scale back should be applied to direct payments to fund ANC support via Pillar I (maximum is 5%)?**

### **2.21 Voluntary coupled support**

The agreement permits the option of providing limited amounts of coupled support to farmers, i.e. a payment directly linked to the volume of output of a specific agricultural product. This support is confined to a specific list of sectors which includes cereals, oilseeds, protein crops, starch potatoes, milk and milk products, sheepmeat, beef, sugar beet and fruit and vegetables. Coupled support may only be granted in circumstances where a qualifying sector is undergoing certain difficulties and it is particularly important for economic, social or environmental reasons. The coupled payments may only be granted to the extent necessary to maintain current levels of production in the sectors or regions concerned and, as such, will be subject to defined quantitative limits and based on fixed areas and yields or on a fixed number of animals. Therefore, this is not meant to be used as a mechanism to boost output from the supported sector.

The budget for this option will come from re-directing part of the direct payments regional ceiling. Up to 8% of the ceiling (i.e. approximately €26m per annum in the case of Northern Ireland) can be spent on this option, with the option for an additional 2% if at least 2% of the ceiling is used to support protein crops. The Department does not intend to support protein crops.

One of the reasons for providing an option for coupled payments within this agreement was to provide an additional potential support mechanism to cater for those farmers with special SFP entitlements. Claimants with special entitlements are currently able to claim payment without activating their entitlements on land. These individuals might also be able to claim coupled payments (if DARD implemented the voluntary coupled scheme option) without the need for land. In Northern Ireland, the number of 'special entitlements' is around 20 in total and this

small number would not in itself justify implementing the voluntary coupled scheme option in Northern Ireland.

The Agri-Food Strategy Board Report (Going for Growth<sup>6</sup>) published on 16 May 2013 recommended that 'support to the red meat sector must be maximised by securing a meaningful level of coupled support'. This report suggested that there is a risk of a decline in suckler cow and sheep numbers. If the full 8% budget was allocated to suckler cows, this would amount to an annual payment of around €93 or £80 per head. If the full allocation was put towards a breeding ewe payment, the amount would be around €28 or £24 per ewe.

Full decoupling took place in Northern Ireland in 2005. At that time, it was expected that the suckler cow herd would reduce substantially and, indeed, there was an initial fall in line with expectations. Since then, suckler cow numbers have recovered in response to market conditions and in 2012, were at similar levels to 2005.

In 2005, England chose to implement full decoupling and to migrate towards a flat rate payment regime, while Scotland chose to retain some coupled payments in the beef sector while choosing to keep decoupled payments on an historic basis. Despite these policy differences which could be seen as favouring the suckler herd, the reduction in the suckler cow population in Scotland was 8% compared with 3% in England over the 2005–2012 period. Of course, it could be argued that the fall in Scotland might have been even greater without a coupled support scheme. It should be noted that the corresponding reduction in Wales, where payments were made on a historic basis but with no coupled support, was 13%. This serves to illustrate that there are many factors influencing production levels and that it can be difficult to distil out the particular influence of the support regime.

However, research by AFBI economists<sup>7</sup> shows that when coupled payments (equivalent to 5% of the Pillar I budget in countries/regions in the EU that fully decoupled in 2005 and 10% of the budget for countries that did not fully decouple –

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<sup>6</sup> <http://www.dardni.gov.uk/print/index/food/going-for-growth.htm>

<sup>7</sup> Patton, M., Feng, S., Binfield, J. and Davis, J. (2013) 'Impact of CAP Post-2013 Reforms on Agriculture in the UK' Agri- Food & Biosciences Institute: FAPRI-UK Project Report February 2013



as suggested in the initial CAP reform proposals published in November 2011) are applied to the beef cow sector, the overall outcome for Northern Ireland is a rise in suckler cow numbers of only 2.1%. However, this is accompanied by a fall in beef prices, which results in a 3.4% reduction in net market receipts. In other words, given the limits applied to coupled support, the impact on production would be marginal and the effect on prices would, if anything, be negative.

The introduction of coupled payments, of course, would bring significant additional administrative burdens for both farmers and the Department. For example, if a suckler cow scheme were to be introduced, a similar level of inspection and restriction as with the scheme prior to 2005 would be required, although the payment levels would be much lower.

The Department is keen to hear the views of stakeholders on the issue of coupled support

**Q31. Should coupled support be applied in Northern Ireland?**

**Q32. If so, please state what sector(s) should be supported and outline the type of scheme(s) envisaged.**

**Q33. What percentage of the national ceiling should be allocated to coupled support (the agreement limits the percentage to no more than 8%)?**

## **2.22 Redistributive payment**

The Redistributive Payment is an optional measure permitting a flat rate payment to be granted to farmers on hectares activated under the Basic Payment Scheme up to a maximum limit of 54ha per holding in the case of Northern Ireland. Two other restrictions apply. Firstly, no more than 30% of the national/regional ceiling can be allocated to the Redistributive Payment. Secondly, the flat rate payment is limited to no more than 65% of the regional average direct payment per hectare. It is also possible to have a graduation of the payment level within the eligible number of hectares.

The payment is funded by reducing the amount of money available for the Basic Payment Scheme. Therefore, its application would redistribute money from larger to smaller holdings.

The analysis in Tables 8a and 8b shows the impact in 2015 and 2019 if the Redistributive Payment were to be implemented in Northern Ireland with the maximum allowable budget allocation and limited to 30ha per holding. The main effect is to allocate substantially more money to non-farming landowners and very small farmers, particularly in year 1. Large farms are particularly disadvantaged by this payment (again particularly in year 1), and all farm types apart from horticulture and 'other types' are adversely affected. The redistributive payment also detracts from the objective of a smooth and gradual transition towards a flat rate payment regime.

The reason why this payment was suggested during the CAP Reform negotiations was to effect a transfer of money away from arable farmers and towards the beef sector in certain Member States. There is no particular reason why this option should be implemented in Northern Ireland. Moreover, given that its main impact would be to redistribute money away from most farm types and towards non-farming landowners, it would be difficult to justify. Therefore, the Department does not propose making use of the Redistributive Payment.

**Table 8a. Distribution of Direct Payments by Farm Type in Northern Ireland With and Without the Redistributive Payment (one Region, Half Way model)**

Farm Type	Half Way Model	Half Way Model With Redistributive Payment	Half Way Model	Half Way Model With Redistributive Payment
	(€m)	(€m)	(€m)	(€m)
	2015	2015	2019	2019
Cereals	4.3	3.9	4.0	3.7
General cropping	3.7	3.6	3.6	3.5
Horticulture	1.1	1.2	1.2	1.3
Pigs and poultry	7.4	7.0	6.8	6.5
Dairy	59.6	51.9	51.1	46.1
Cattle and sheep LFA	142.3	138.4	142.0	138.2
Cattle and sheep lowland	48.4	45.3	42.7	41.3
Mixed	11.0	9.7	9.8	8.9
Other types	1.1	1.4	1.4	1.6
No match	27.0	30.3	29.7	32.2
Landowners	12.7	25.7	26.3	35.1
<b>Total</b>	<b>318.5</b>	<b>318.5</b>	<b>318.5</b>	<b>318.5</b>

**Table 8b. Distribution of Direct Payments by Farm Size in Northern Ireland With and Without the Redistributive Payment (one Region, Half Way Model)**

Farm Size	Half Way Model	Half Way Model With Redistributive Payment	Half Way Model	Half Way Model With Redistributive Payment
	(€m)	(€m)	(€m)	(€m)
	2015	2015	2019	2019
Very small	130.8	137.0	130.6	136.9
Small	60.8	53.8	56.3	50.7
Medium	30.7	26.1	27.6	23.9
Large	56.5	45.5	48.2	39.7
No match	27.0	30.3	29.7	32.2
Landowners	12.7	25.7	26.3	35.1
<b>Total</b>	<b>318.5</b>	<b>318.5</b>	<b>318.5</b>	<b>318.5</b>

## Tables 8a and 8b Notes

1. Based on 30% of the budget being allocated to a Redistributive Payment of €149.63/ha for up to 30ha and Half Way Model implemented.
2. Greening payment is allocated as a percentage of the Basic Payment Scheme.
3. Totals may not be exact due to rounding.

### **Q34. Do you agree that the Redistributive Payment should not be implemented in Northern Ireland?**

#### **2.23 Small Farmers' Scheme**

There is an option to use up to 10% of direct payment monies to operate a payment scheme for small farmers. Recipients of the scheme would receive a payment that would replace all of the direct payments that they might otherwise have received and they would be exempted from both cross compliance and greening requirements. This payment can be no lower than €500 and no higher than €1,250 per holding.

There are two policy intentions behind the creation of the Small Farmers' Scheme. One is to enhance the payment going to small farmers (this enhancement is optional) and the second is to achieve simplification. The Department would only propose implementing the Small Farmers' Scheme if it was convinced that it delivered simplification benefits. This decision is also linked to the minimum size of claim (see Section 2.6). If a 5ha limit is set for the minimum claim, then the number of farmers potentially eligible for a Small Farmers' Scheme would be substantially reduced.

If the Small Farmers' Scheme was implemented, and the maximum payment was set at €1,250 per holding, then approximately 8,600 farmers (23% of the total) could potentially qualify (Table 9). Given that those participating in the Small Farmers' Scheme are exempt from cross compliance, there are potential simplification benefits for the Department and farmers.

If the Department decided to implement the Small Farmers' Scheme, it would not propose making use of the option to enhance the payment going to small farmers. In a Northern Ireland context, those eligible for the Small Farmers' Scheme (i.e. those receiving less than €1,250) for the most part operate exceptionally small

holdings and many are non-farming landowners claiming on a small area of land. On that basis, the Department believes that it would be difficult to justify boosting the value of payments to such holdings (which would require a scale back being applied to payments under the Basic Payment Scheme). Moreover, the detailed processes required to manage these top-ups would be complex to administer.

A concern has been raised that the exemption from cross compliance could lead to negative environmental consequences. However, the area of land that would be covered by participants in the Small Farmers' Scheme would represent no more than 6% of total agricultural land area in Northern Ireland and the associated payments should account for only 2% of all payments. Therefore, any potential environmental risk would be small. Furthermore, in practical terms, the deterrent effect of having a penalty applied to direct payments is low in any event given the low level of payments received by these farmers.

The Small Farmers' Scheme also provides an exemption from the greening requirements but almost all the farmers in the Small Farmers' Scheme would trigger the exemptions within the greening criteria in any event. Therefore, this exemption is of little material consequence.

There are four options for determining the level of payment under the Small Farmers' Scheme. These are:

1. An amount not exceeding 25% of the national (regional) average direct payment per beneficiary. This amount cannot be lower than €500 or higher than €1,250.
2. An amount equal to the national (regional) average direct payment per hectare times a number of hectares not exceeding 5 hectares. This amount cannot be lower than €500 or higher than €1,250.
3. An amount equal to the total value of direct payments the farmer would otherwise receive each year if not in the Small Farmers' Scheme. This amount is subject to a maximum which can be set between €500 and €1,250. There is an additional option to round-up amounts below €500 to €500.

4. An amount equal to the total value of direct payments the farmer would otherwise receive in 2015. This amount would be used in all years of the Scheme, though it would be subject to adjustments reflecting changes to the national ceiling. This amount is subject to a maximum which can be set between €500 and €1,250. There is an additional option to round-up amounts below €500 to €500.

If the Department decides to implement this measure, it would propose applying Option 3 from the above list. The maximum payment per holding would be set at €1,250 and the option to round up payments to €500 would not be applied. The Department sees this as the fairest and simplest approach, which allows participating farmers to continue receiving the level of payment they would otherwise get but with the advantage of exemption from greening and cross compliance. Options 1 and 2 would result in payments to farmers in the Scheme being topped up which, as indicated above, would be difficult to justify. Option 4 is similar to Option 3 but much more complicated as the payment is frozen at the 2015 level while entitlements (which those in the Small Farmers' Scheme must continue to hold and activate) will be changing in value each year due to the progression towards a flat rate payment.

Farmers would be able to opt into the Small Farmers' Scheme before the deadline of 15 October 2015 or, alternatively, all farmers receiving less than €1,250 could be automatically opted into the scheme. If the Scheme is adopted, the Department would propose automatically to opt in to the Scheme all those farmers who would otherwise receive less than €1,250. However, farmers would have the right to opt out if they wished and participate in the standard Basic Payment Scheme, etc..

The Department is exploring whether it is possible automatically to opt out anyone in a subsequent year if and when the amount they would otherwise receive was more than the €1,250 limit within the Scheme. Farmers who would receive more than €1,250 in direct payments may wish to participate in the Scheme (given exemptions on greening and cross compliance) but their payment would be capped at €1,250.

Table 9 shows the number of farmers likely to be eligible for the Small Farmers' Scheme. The number of eligible farmers reduces over time given movements towards a flat rate direct payment per hectare over the years from 2015 to 2019. As indicated above, if the minimum level of hectares that can be claimed is raised to 5ha, the Department would not propose implementing the Small Farmers' Scheme as many of the potential participants in the scheme would be excluded from receiving direct payments under the 5ha rule.

**Table 9. Small Farmers' Scheme**

Direct Payment Amount (€)	2015			2019		
	Number of farmers	Number of Entitlements	Total Amount (€m)	Number of farmers	Number of Entitlements	Total Amount (€m)
Under €1250 No 5ha limit	8,577	53,168	5.8	4,657	16,909	3.7
Under €1250 with 5ha limit	5,009	41,916	4.2	1,020	5,736	1.1

**Table 9 Notes**

1. Number of businesses, entitlements held and amounts potentially eligible for Small Farmers' Scheme under half way model.
2. Maximum amount for Small Farmers' Scheme set at €1,250.
3. Assumes that those under the 5ha limit in 2013 do not increase the area used to establish entitlements in 2015.
4. Totals may not be exact due to rounding.

**Q35. Do you agree that the Department should not implement the Small Farmers' Scheme if the minimum claim size limit is set at 5ha?**

**Q36. If the minimum claim size limit is not set at 5ha, do you agree that the Department should implement the Small Farmers' Scheme provided it delivers simplification?**

**Q37. If the Scheme is implemented, do you agree with the Department's suggestion automatically to include all farmers who would receive less than €1,250 into the scheme unless they opt out?**

**Q38. If the Scheme is implemented, do you agree with the Department's suggestion to set the payment at the level the recipients would otherwise receive in a given year (subject to the upper limit of €1,250)?**

## **2.24 Active Farmer Test**

The agreement includes a compulsory active farmer test for the following types of businesses (i.e. a negative list): railway services, airports, waterworks, real estate services or permanent sporting and recreational facilities. These types of businesses will be prohibited from receiving payments unless they can show that their direct payment receipts are at least 5% of their non-agricultural receipts, or that their agricultural activities are not insignificant, or that their principal business or company objects consist of exercising agricultural activity. A minimum claim threshold must also apply to this test (i.e. those businesses claiming below this threshold would not be subject to the test). This threshold must not be higher than €5,000, but could, in theory, be as low as zero (i.e. at zero there would be no exemption from the test for businesses on the negative list).

There would be merit in applying a reasonably high threshold if the amounts at stake were very small and/or it is likely that most of the affected businesses would meet the active farmer test requirements in any event. In other words, there would be little point in subjecting businesses to what is potentially a difficult test to administer if they are likely to pass this test and qualify for the payment, or the value of what they are claiming is very modest.

The Department has the option to add similar non-agricultural business or activities to the negative list defined above. However, it should be noted that it would not be possible to add non-farming landowners to this list because they would not meet the requirement of being 'similar' non-agricultural businesses or activities. But even if non-farming landowners could be included on the negative list, it is highly likely that most would pass the subsequent test given that, for example, their non-agricultural receipts are likely to be low enough to enable them to pass.

A further option is to exclude any business where agricultural activities form only an insignificant part of their overall economic activities and/or whose principal activity or



object does not consist in exercising an agricultural activity. This option exists in current SFP legislation, but has not been used extensively in the EU to date because it is excessively bureaucratic and difficult to apply, with great scope for challenge. It is unlikely that this approach could be made to work effectively. Therefore, the Department does not propose to use this option.

Also relevant to defining active farming is the requirement that in areas “naturally kept in a state suitable for grazing or cultivation”, minimum levels of activity must be set. The EU Commission is expected to produce further details on this issue (there may be more detail in the delegated acts) and at this stage, it remains unclear whether any land in Northern Ireland would fall into this category. The Department may have some discretion as to what constitutes ‘minimum activity’ and would be keen to hear from stakeholders on this issue and on how land naturally kept in a suitable state could be defined.

**Q39. Do you agree that additional non-agricultural businesses should not be added to the negative list?**

**Q40. Please state your views on the level at which a threshold for exempting businesses from the ‘active farmer’ test should be set (can be anything from €0 up to €5,000).**

**Q41. Do you have any views on how land naturally kept in a state suitable for grazing or cultivation should be defined, and do you feel there is land in Northern Ireland that might fall into this category?**

**Q42. Do you have any suggestions for how minimum levels of activity should be defined for land that is naturally kept in a state suitable for grazing or cultivation?**

## **2.25 Capping (or reducing) payments above the €150,000 threshold**

The agreement stipulates a mandatory reduction of 5% for payments under the Basic Payment Scheme exceeding €150,000 received by individual claimants. There are options to set higher rates of reduction - up to 100% (on amounts over

€150,000) - or to apply progressive reductions over a number of payment bands above the threshold of €150,000. The greening payment, payments under the Young Farmers' Scheme and any optional Pillar I schemes introduced are exempt from any deduction or capping.

There is a further option in all cases to allow salary mitigation, i.e. salaries paid to farm workers and related employment taxes (in the year previous to the claim) can be subtracted from a claimant's Basic Payment receipts prior to the imposition of any reductions above the €150,000 threshold.

Table 10 gives an example of payment reductions above the €150,000 threshold with and without salary mitigation. In this example, the mandatory reduction of 5% on a threshold of €150,000 is applied, while the Basic Payment due is €175,000 and eligible salaries and taxes are €15,000.

**Table 10. Reducing payments under the Basic Payment Scheme above the €150,000 threshold with and without salary mitigation**

	Without salary mitigation	With salary mitigation
<b>Basic Payment liable for reduction</b>	€175,000	€175,000 - €15,000 = €160,000
<b>Reduction</b>	$(€175,000 - €150,000) \times 5\% = €1,250$	$(€160,000 - €150,000) \times 5\% = €500$
<b>Payment after reduction</b>	€175,000 - €1,250 = €173,750	€175,000 - €500 = €174,500

Any funds recovered as a result of capping or reductions to Basic Payments above €150,000 must be transferred to the Rural Development Programme.

The numbers of claimants who will receive in excess of €150,000 under the Basic Payment Scheme in Northern Ireland is likely to be very small. Table 11 shows the numbers of farmers that would be affected by a €150,000 cap on the Basic Payment Scheme in 2015 and 2019 (based on current payment patterns).

Given that it is difficult to justify very large amounts of public money going to a single business, the Department proposes applying a cap on the Basic Payment

Scheme at €150,000. In other words, no business would receive more than €150,000 under the Basic Payment Scheme as there would be a 100% reduction applied to amounts above this threshold. Other Pillar I direct payments such as the greening payment and the Young Farmers' Scheme would not be subject to the cap. The option to use salary mitigation would not be applied as it introduces a great deal of additional complexity for little practical effect. All monies generated from capping would be retained in Northern Ireland and transferred to Pillar II.

**Table 11. Impact of Capping under Half Way Model**

Basic Payment Amount (€)	2015			2019		
	Number of farmers	Total Amount (€m)	Reduction (€m)	Number of farmers	Total Amount (€m)	Reduction (€m)
150,000+	5	1.0	0.2	4	1.1	0.5

**Table 11 Notes**

1. 100% reduction applied to Basic Payment over €150,000 (All other Pillar I payments excluded).
2. No optional Pillar I schemes implemented.

**Q43. Do you agree that payments made under the Basic Payment Scheme to any given recipient should be capped at €150,000?**

**Q44. Do you agree that 'salary mitigation' should not be applied?**

## 2.26 Summary of suggested package (key policy decisions only)

### 1. Entitlement allocations and internal convergence

- Cancel all existing SFP entitlements at the end of 2014 and re-allocate entitlements for the new regime based on land declared in 2015 (rather than roll over the existing entitlements).
- Set the minimum size of holding that can be claimed at 5 hectares (rather than the current minimum of 0.3ha and a minimum payment of €100).
- Define only one region for payments (rather than two or more ring fenced sub-regions).
- Use value of entitlements held in 2014 as the baseline for calculating a claimant's initial direct payment per hectare under the new regime (rather than value of entitlements activated in 2014).
- Not to move to flat rate from 2015, or by 2019, but instead increase the unit value of those entitlements below the regional average by one half of the difference between the initial value and 100% of the regional value, while respecting the condition that no entitlement should have a unit value lower than 60% of the regional average by 2019. This would be funded by applying a linear reduction to the portion of the unit value of entitlements above the regional average. The result would be to move all entitlement values half way towards a flat rate regime by 2019 - in line with the Department's policy position throughout the negotiations (i.e. an orderly and gradual 10 year transition towards flat rate support).

## **2. Greening payment**

- Operate the greening payment as a percentage of the total value of entitlements held by an individual (rather than a common flat rate payment per hectare).
- Do not make use of the 'equivalence' option under greening.
- Monitor permanent grassland at a regional level rather than impose farm level restrictions.
- Land uses eligible as ecological focus areas to comprise landscape features, land lying fallow, agro-forestry and afforested land eligible for direct payments in 2008. Further possible uses subject to additional clarification from the EU Commission and the ability to apply appropriate controls.

## **3. Young Farmers' Scheme**

- Operate the mandatory Young Farmers' Scheme as a 25% top-up of the young farmers own average payment per hectare.
- Set the upper limit at 90ha (the maximum allowed).
- Make a Level III qualification in agriculture (or a closely related subject) an eligibility requirement of the Young Farmers' Scheme.

## **4. ANC support**

- Support ANC areas from the 2015 Scheme year through a combination of redistribution (via the suggested half way, one region model) and use of the ANC top-up under Pillar I and do not operate a separate LFACA scheme under Pillar II beyond the 2014 Scheme year (subject to EU Commission clarification).

## **5. Coupled support**

- Whilst the evidence would not support the introduction of a coupled support option, seek views on whether it should be used, in which sectors, and the percentage of the ceiling that could be allocated.

## **6. Redistributive payment**

- Not to use the 'redistributive' payment.

## **7. Small Farmers' Scheme**

- Implement the Small Farmers' Scheme using the option that keeps the total payment to farmers in the scheme the same as they would otherwise receive under the individual schemes.
- If 5ha minimum claim threshold is adopted, the Small Farmers' Scheme would not be implemented.

## **8. Capping of payment**

- Cap payments under the Basic Payment Scheme at €150,000 per claimant

### **SECTION 3 CONSULTATION QUESTIONS**

**Q1. Do you agree with Department's suggestion not to apply a reduction coefficient to permanent grassland located in areas constrained by climatic conditions, soil quality, steepness and water supply and not to exclude agricultural area under permanent greenhouses from being used to establish entitlements?**

**Q2. Do you agree with the Department's suggestion not to apply a reduction coefficient to land used to activate entitlements where grasses and other herbaceous forage are not predominant but which is grazed as part of established local practice?**

**Q3. Do you agree with the Department's suggestion not to apply a siphon when payment entitlements are transferred without land?**

**Q4. Do you agree that all existing entitlements should be cancelled at the end of 2014 and entitlements re-allocated based on the area of eligible land declared in 2015?**

**Q5. Do you agree that the number of entitlements that can be established in 2015 should not be restricted to the number of eligible hectares declared in 2013? If not, please explain why.**

**Q6. If you consider that existing entitlements should be retained, please state your views on whether those who declare more land than entitlements held in 2015 should receive additional entitlements from the Regional Reserve? (Only answer this question if you respond 'no' to Q4).**

**Q7. Do you agree with the Department's suggestion to permit those who have never held SFP entitlements to be eligible to receive entitlements under the new regime if they can provide verifiable evidence of active farm production by 15 May 2013? If not, please explain why.**

**Q8. Do you agree with the Department's suggestion to set (i) the minimum area for which the establishment of entitlements can be requested and (ii) the minimum claim size at 5ha?**

**If not please state your preferences for the minimum size to be applied to (i) establishing entitlements and (ii) making a claim in terms of area and amount received. Please note that setting no minimum for the establishment of entitlements could result in very small allocations (down to 0.1ha). The mandatory minimum requirement for the claim size has to be set at either 1ha or €100.**

**Q9. Do you agree with the Department's proposal not to use sub-regions in Northern Ireland? If not, please explain why and outline your preferred approach.**

**Q10. Do you agree with the Department's suggestion not to pay the Basic Payment as a flat rate payment from 2015? If not, please explain why.**

**Q11. Do you agree with the Department's suggestion to use 'entitlements held' in 2014 as the basis for calculating a claimant's initial Basic Payment per hectare? If not, please explain why.**

**Q12. Do you agree with the Department's suggestion not to move to a system of flat rate payments by 2019? If not, please explain why.**

**Q13. Do you agree with the Department's suggestion to increase the unit value of those entitlements below the regional average by one half of the difference between their initial unit value and 100% of the regional average, while respecting the requirement that no entitlement should have a unit value lower than 60% of the regional average by 2019? If not, please explain why and outline your preferred alternative.**

**Q14. Do you agree with the Department's suggestion for entitlements above the regional average to apply a linear decrease to the difference between the**



**initial unit value and the regional average? If not, please explain why and outline an alternative method.**

**Q15. Do you agree with the Department's suggestion not to use the Regional Reserve to allocate entitlements to farmers in areas subject to restructuring where there is a need to prevent land abandonment and/or compensate for specific disadvantages?**

**Q16. Do you agree that Regional Reserve funds should be used to make payments in cases of *force majeure* or where exceptional circumstances exist?**

**Q17. What are your views on the Department's suggestion to make a Level III qualification in agriculture (or a closely related subject) a requirement for young farmers and new entrants to receive an award from the Regional Reserve?**

**Q18. Do you agree with the Department's suggestion to operate the greening payment as a percentage of the total value of BPS entitlements activated by an individual farmer rather than as a flat rate payment?**

**Q19. Do you agree with the Department's suggestion to monitor the permanent grassland requirement at regional level rather than farm level?**

**Q20. Do you agree with Department's suggestion not to expand the ploughing ban beyond the areas of permanent grassland covered by the Habitats and Birds Directives as specified in the EU Commission regulation?**

**Q21. What are your views on which areas should be eligible for use as EFA?**

**Q22. What is your view on whether or not to use conversion factors in the EFA conversion matrix in determining the area of land which counts as EFA?**

**Q23. Do you agree with the Department's suggestion not to make use of the option to allow groups of farmers to use collective arrangements for up to 50% of their EFA obligation?**

**Q24. Do you agree with the Department's suggestion not to make use of the option to implement up to 50% of the percentage points of the EFA at regional level?**

**Q25. Do you agree with the Department's suggestion not to make use of the 'equivalence' option?**

**Q.26. What are your views on the Department's suggestion to make a Level III qualification in agriculture (or related subject) a requirement for Young Farmers' Scheme eligibility?**

**Q27. Do you agree that the level of top-up payment received by a young farmer should be based on 25% of the young farmers own average payment per hectare (before top-up is made)? If not, please explain why.**

**Q28. Do you agree that the top-up payment per hectare for young farmers should be limited to no less than 90 hectares? If not, please explain why.**

**Q29. Do you agree with the Department's suggestion to provide support to Areas of Natural Constraint (ANCs) via Pillar I from 2015 scheme year?**

**Q30. If so, what percentage scale back should be applied to direct payments to fund ANC support via Pillar I (maximum is 5%)?**

**Q31. Should coupled support be applied in Northern Ireland?**

**Q32. If so, please state what sector(s) should be supported and outline the type of scheme(s) envisaged.**

**Q33. What percentage of the national ceiling should be allocated to coupled support (the agreement limits the percentage to no more than 8%)?**

**Q34. Do you agree that the Redistributive Payment should not be implemented in Northern Ireland?**

**Q35. Do you agree that the Department should not implement the Small Farmers' Scheme if the minimum claim size limit is set at 5ha?**

**Q36. If the minimum claim size is not set at 5ha, do you agree that the Department should implement the Small Farmers' Scheme provided it delivers simplification?**

**Q37. If the Scheme is implemented, do you agree with the Department's suggestion automatically to include all farmers who would receive less than €1,250 into the scheme unless they opt out?**

**Q38. If the Scheme is implemented, do you agree with the Department's suggestion to set the payment at the level of the amount the recipients would otherwise receive in a given year (subject to the upper limit of €1,250)?**

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**Q40. Please state your views on the level at which a threshold for exempting businesses from the 'active farmer' test should be set (can be anything from €0 up to €5,000).**

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**Q42. Do you have any suggestions for how minimum levels of activity should be defined for land that is naturally kept in a state suitable for grazing or cultivation?**

**Q43. Do you agree that payments made under the Basic Payment Scheme to any given recipient should be capped at €150,000?**

**Q44. Do you agree that 'salary mitigation' should not be applied?**

## SECTION 4 RESPONDING TO THIS CONSULTATION

### Responses

Responses to this consultation should be sent to:

Policy and Economics Division  
Department of Agriculture and Rural Development  
Room 361A  
Dundonald House  
Upper Newtownards Road  
Ballymiscaw  
Belfast  
BT4 3SB

Or, alternatively by:

E-mail: [policy.development@dardni.gov.uk](mailto:policy.development@dardni.gov.uk)

### Timetable

Written responses to the consultation paper should be sent to the address above and should arrive **no later than 17 January 2014**. It may not be possible to consider responses received after this date. An acknowledgement will be sent to confirm receipt of each response.

### Publication of Responses

The Department will publish a summary of responses following the closing date for receipt of comments. Your response, and all other responses to this publication, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of responses and they will give you guidance on the legal position about any information given by you in response to this publication. Any confidentiality disclaimer generated by your IT system in e-mail responses will not be treated as such a request.

The Data Protection Act states that information provided by respondents to this consultation exercise will be held and used for the purposes of the administration of this current exercise.

The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or be treated as confidential. If you do not wish information about your identity to be made public, please include an explanation in your response.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the Freedom of Information Act provides that:

- The Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
- The Department should not agree to hold information received from third parties "in confidence" which is not confidential in nature; and
- Acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

For further information about confidentiality of responses please contact the Information Commissioner's Office (or see web site at:

<http://www.informationcommissioner.gov.uk/>)

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